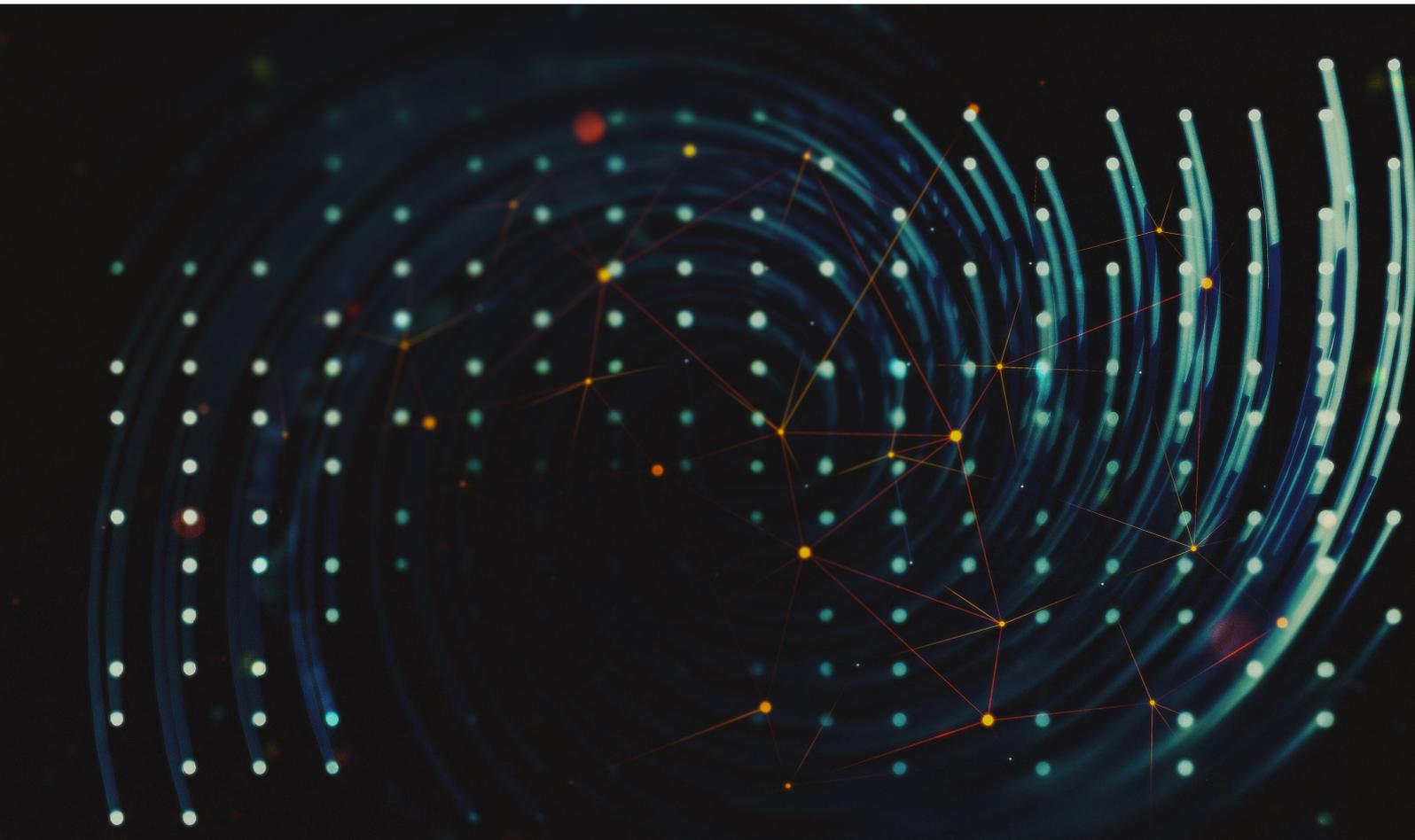




# The voice of the European Internet industry

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ANNUAL REPORT 2017





RESTAURANT



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# Word of the President

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In 2017 EuroISPA hosted its 20<sup>th</sup> year anniversary celebration, celebrating its founding as the representative body for European Internet services providers. Back in 1997 the association was established in order to promote the voice of the fledging Internet industry, with the aim to ensure that EU and international regulation encouraged innovation in this nascent sector. Looking back at EuroISPA's achievements and engagement over the past year, we can clearly see the founding members' ambitions reflected in our work.

In the last year EuroISPA dealt with many challenges head-on, and through our successes we reaffirmed the importance and value of engaging in regulatory debate at EU level. The Internet industry was centre-stage in numerous political discussions throughout the course of 2017, particularly in the context of intermediary liability and responsibility, data protection and tackling illegal content online. In engaging in these and other debates, we endeavoured to ensure that EU policymakers considered the unique situation of the various layers of the Internet value chain to realise regulatory outcomes that reflect real market dynamics.

A large focus of EuroISPA's activities in 2017 centred on providing technical insight and expertise from the point of view of European ISPs on the key policy issues driving the day in Brussels and beyond. For instance, our participation in Europol's EC3 cybercrime expert group and the European Commission expert group on e-evidence ensured that the interests of the European Internet sector were at the heart of policy considerations around emerging cybercrime issues. In addition, EuroISPA continued in 2017 our longstanding engagement on the Copyright Reform directive and the E-Privacy regulation, to ensure policy outcomes that enhance both fundamental rights and digital innovation.

Even in light of our successes in 2017, there is still much to do to ensure our members benefit from an innovation-friendly regulatory environment. In 2018 EuroISPA will continue its long-running effort to protect the intermediary liability safe harbours that have proven fundamental to the development of the Internet in Europe. In addition, we will continue our thought-leadership on issues of ISPs' cooperation with law enforcement authorities, to ensure that upcoming EU policy initiatives on the fight against cybercrime reflect the best practices that we have developed after 20 years of cooperation with public authorities. Besides this, we will also place a priority on bringing about the removal of internal barriers to digital content, to empower European businesses and consumers to get the most value from our networks and services.

Ultimately, from copyright reform to data retention and everything in between, EuroISPA will continue to serve as the voice of the European Internet industry, guiding legislation that advances Europe's trajectory towards true digitalisation.

We hope you enjoy reading about our efforts thus far.



**Oliver Süme**  
EuroISPA President

A handwritten signature in black ink, which appears to be 'O. Süme', written in a cursive style.

***“Even in light of our successes in 2017, there is still much to do to ensure our members benefit from an innovation-friendly regulatory environment”***

*Oliver Süme, EuroISPA President*



# About EuroISPA

## EuroISPA AT A GLANCE

EuroISPA is the world's largest association of Internet services providers, representing the interests of more than 2500 companies from all across the European Union. EuroISPA is the voice of the complete Internet value chain, from access providers, to domain name registries, to over-the-top services and everything in between.

EuroISPA engages at EU-level on the full spectrum of information society policy issues, such as intermediary liability, cybersecurity, e-commerce,

data protection and privacy. EuroISPA is also active in various international Internet governance fora, ensuring Europe's voice is at the forefront of discussions on the next generation global Internet.

Through its secretariat in Brussels and network of national ISP associations, EuroISPA advocates at the EU and International level for an innovation-friendly competitive regulatory environment that can allow the Internet infrastructure to drive Europe's digitised economy forward.

## WHO WE REPRESENT



INTERNET ACCESS PROVIDERS



INTERNET EXCHANGES



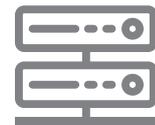
TELECOM OPERATORS



DOMAIN NAME REGISTRIES



ILLEGAL CONTENT HOTLINES



HOSTING PROVIDERS

## WHAT WE DO



INFORMATION EXCHANGE



LEGISLATIVE MONITORING



ADVOCACY



INDUSTRY PROMOTION

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## HOW WE WORK

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### EUROISPA COUNCIL

The EuroISPA Council comprises national associations of Internet services providers from across the EU Member States.

EuroISPA is governed by and for its members, through its Council. Each member association appoints a representative to the EuroISPA Council. This body meets regularly each quarter in order to formally discuss policy, matters of importance to the EU Internet industry and the administration of the association.

EuroISPA's policy and advocacy work is steered

by its eight Council sub-committees, which drive the association's work across the full swathe of information society dossiers, from data protection to cybersecurity. Each sub-committee is chaired or co-chaired by a EuroISPA Council member (see page 13).

Each year, the Council appoints a group of Officers – a President, a Vice-President and a Treasurer – who are tasked with fulfilling important duties for the continued functioning of the association.

The EuroISPA secretariat in Brussels manages the day-to-day activity of the association.



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### EUROISPA INDUSTRY FORUM

The EuroISPA Industry Forum allows individual companies with a legitimate interest in the Internet industry to participate and provide technical support in EuroISPA's activities and work groups.

The Industry Forum meets regularly in order to discuss policy issues and matters of importance to the EU Internet industry. The Industry Forum acts in a purely advisory capacity to the Council.



LIBERTY GLOBAL



### **COPYRIGHT REFORM DIRECTIVE**

In September 2016, the European Commission unveiled its legislative proposal to reform the EU's copyright regime. It was roundly criticised by EuroISPA and other digital policy stakeholders, due to provisions which would oblige ISPs to filter user-uploaded copyright-protected content, as well as sweeping new copyright protection for press publishers.

The Copyright Reform directive legislative procedure is ongoing. EuroISPA has been actively engaged in expressing the views of ISPs to the leading politicians working on the file. EuroISPA, alongside other EU associations, addressed numerous joint-letters to EU officials and met with countless political figures and policy advisers to advance the position of ISPs. Our advocacy focused especially around the article 13 provisions of the text, where we argued forcibly that the copyright proposal should in no way revise the E-Commerce directive's liability safe harbour and not place an obligation on ISPs to undertake a general monitoring of their services.

EuroISPA has also continued its engagement through its leadership in the Copyright4Creativity coalition. In 2018 EuroISPA will maintain its high level of activity around copyright reform to achieve a balanced approach, ensuring effective copyright protection while safeguarding citizens' and ISPs' rights.

### **E-PRIVACY REGULATION**

Following EuroISPA's coordination of a broad stakeholder position in the European Commission's public consultation on the E-Privacy directive in 2016, the association continued to lead industry positioning on the legislative proposal for an E-Privacy Regulation throughout 2017. The E-Privacy regulation aims to complement and particularise the provisions of the General Data Protection Regulation (GDPR) for electronic communications.

During negotiations in the European Parliament and EU Council, the debate has become increasingly politicised, underlining the importance of EuroISPA's sustained engagement towards a balanced outcome that enhances innovation and user rights. Since the adoption of an industry-unfriendly position on the legislative proposal by the European Parliament in October 2017, EuroISPA has focused intensively upon the EU Council, and in both the European capitals and Brussels the association has sought to convince Member State representatives of the importance of a principle-based approach to privacy in electronic communications that maintains consistency with the GDPR.

### **NOTICE & ACTION**

Throughout 2017, EuroISPA was heavily involved in advocacy around notice & action and the fight against illegal content, as the European Commission and EU Member States continue their considerations around possible legislative action in the area.

EuroISPA Intermediary Liability committee chair Malcolm Hutty participated in several European Commission expert workshops on the future of notice & action, and EuroISPA engaged with multiple European Parliament political resolutions that touched upon the issue of illegal content online. Additionally, the lead European Commission official working on illegal content and notice & action, namely Mr Werner Stengg, gave a guest address at the December 2017 EuroISPA General Meeting, where EuroISPA members had the opportunity to engage the Commission representative in a robust exchange of views on content-related matters.

EuroISPA was particularly active in context of the European Commission's September 2017 white paper 'Illegal Content Online: Towards an Enhanced Responsibility for Online Platforms', consistently arguing that the rule of law must not be sacrificed in the fight against illegal content online.



## LAW ENFORCEMENT CROSS-BORDER ACCESS TO DATA

In January 2017 the European Commission launched a dedicated workstream on criminal justice in cyberspace, with a focus upon enhancing cross-border access to data. EuroISPA was invited to participate to a European Commission expert group, where various stakeholders exchanged views on best practices and challenges of the existing cooperation frameworks between law enforcement authorities and ISPs.

EuroISPA used the expert group platform to advocate strongly for a meaningful ISP cost-reimbursement mechanism, and for ISPs' cooperation channels to be limited to judicial and law enforcement authorities within their jurisdiction. EuroISPA was represented by Vice-President Dr Maximilian Schubert (ISPA Austria) and Council member Alex de Joode (Nederland ICT). Testament to its high-level of engagement on the file, EuroISPA submitted written contributions to the Commission as part of two dedicated consultations, and Vice-President Dr Schubert presented the Austrian model to the group as a best practice in public-private cooperation in fighting cybercrime.

## GENERAL DATA PROTECTION REGULATION IMPLEMENTATION

Throughout 2017, EuroISPA engaged intensively with the various EU-level actors involved in the GDPR implementation, notably the European Commission, the European Data Protection Supervisor, and the Article 29 Working Party (representative body for European data protection authorities).

Specifically, EuroISPA was invited as an expert participant to two Article 29 Working Party 'Fab Lab' workshops, in which industry, civil society and academics exchanged views with data protection authorities from the 28 EU Member States on the respective interpretation and implementation of the GDPR.

EuroISPA submitted position papers to national data protection authorities on GDPR interpretation on data breach notification and data portability. The association also facilitated substantive information exchange between the national ISP association members regarding Member State implementation of the 'opening clauses' provisions.



## **ENCRYPTION AND CARRIER GRADE NETWORK ACCESS TRANSLATION**

In 2017, the EU policy sphere witnessed a considerable increase in policymaker interest in law enforcement authorities ‘going dark’ in the fight against crime, owing to the advance of privacy-enhancing and anonymization technologies.

The use by ISPs of encryption and carrier grade network access translation (CGN) technologies was a particular focus of interest, with numerous EU institutions putting pressure on ISPs to ensure the deployment of such technologies does not inhibit law enforcement authorities’ ability to access location and content data.

On encryption, EuroISPA was invited to participate to the European Commission expert group on the matter, using the opportunity to brief EU policymakers on the importance of encryption in ensuring trust, security and privacy in digital technologies. EuroISPA used its membership of the Europol Communications Providers Advisory

Group to engage law enforcement authorities on the CGN issue, highlighting how its use ensures privacy, security and protection of users’ fundamental rights.

EuroISPA also contributed to numerous European Parliament political resolutions that touched upon these issues, and cemented its position as a key industry interlocuter on all policy issues concerning cybercrime.

## **INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT**

On 29 November 2017 the European Commission published a new policy package on intellectual property rights enforcement in Europe.

The policy package is welcome in that it confirms that the Commission will not seek to revise the existing legal framework for enforcing IPRs before summer 2019. Instead, the EU executive has opted to issue guidelines for national governments on how they can better implement the existing EU-wide rules.

EuroISPA engaged closely with the European Commission throughout 2017 to highlight the importance of maintaining (and better implementing) the existing EU framework for IPR enforcement. Here, EuroISPA stressed the effectiveness of the existing ‘follow the money’ approach to combat IPR infringements and the successes of the various industry memoranda of understanding on IPR issues.

## **CONSUMER PROTECTION COOPERATION REGULATION**

The Consumer Protection Cooperation (CPC) regulation, a procedural law to enhance enforcement of EU consumer protection law, was officially adopted in 2017.

The proposal was particularly important for ISPs, owing to new online enforcement powers given to consumer protection authorities, including the power to issue take-down notices for websites, domains or digital accounts suspected of violating consumer protection law.

In early 2017 EuroISPA engaged closely with the lead MEPs in the European Parliament, and managed to ensure a number of key safeguards in the online content control provisions of the Parliament’s text. However, subsequent inter-institutional ‘trialogue’ negotiations resulted in a text whereby the safeguards secured by EuroISPA were unfortunately dropped.

Prior to the regulation’s entry into force in 2019, EuroISPA will continue to engage with national ISP associations to provide a platform for them to manage the implementation in the most industry-friendly manner possible.

## **AUDIO-VISUAL MEDIA SERVICES DIRECTIVE REVISION**

The Audio-Visual Media Services directive (AVMS) revision continues to be negotiated amongst the EU Institutions, with its aim to bring audiovisual content rules up to date for the current environment and evolving consumer interests.

Since its publication in 2016, EuroISPA has been actively engaged in protecting the interests of ISPs and raising awareness amongst law-makers about making a technical distinction between traditional

broadcasters and non-linear audiovisual service providers. Notably, EuroISPA, in coalition with other European associations, has underscored the importance of respecting the principles of the E-Commerce directive by not imposing on ISPs a general obligation to monitor content. EuroISPA has also highlighted that the liability protections of the E-Commerce Directive are essential to preserve a free and open internet, not to be undermined in the legislation’s revision.

## **SATELLITE AND CABLE REGULATION**

The Satellite and Cable Regulation (SatCab), was proposed in 2016 with a view to simplify the rights clearance process for broadcasters and to increase cross-border access to TV and radio programmes.

At the end of 2017, the responsible committee in the European Parliament endorsed a significantly restricted the scope of the country of origin principle and detrimental ‘direct injection’ provisions.

EuroISPA mobilised upon seeing this negative stance. To bring attention to the potentially detrimental effects on ISPs, EuroISPA penned a letter to high-level policy officials in the EU Council. Therein we called for a more measured approach, benefitting Internet users and service providers along the value chain.

As negotiations develop EuroISPA will remain active on this proposal, to ensure a coherent rights clearance system enabling a flourishing European digital content industry.



## PUBLIC OUTREACH

### EUROPEAN COMMISSION DG HOME EXPERT GROUPS ON E-EVIDENCE AND ENCRYPTION

In January 2017 EuroISPA was invited to join the European Commission DG HOME expert groups on e-evidence and encryption. The expert groups were established to feed into the Commission's dedicated policy reflection on enhancing the fight against cybercrime, and shape the development of future policy in the area.

EuroISPA participated to several e-evidence expert group meetings over the course of the year, and used the platform to highlight to Commission policymakers the unique situation faced by small and medium-sized ISPs. EuroISPA's representatives also used the opportunity to highlight best practices in ISP-law enforcement cooperation from across the EuroISPA membership, and stressed how these case-studies should form the basis of any future legislation in the cybercrime area.

On encryption, EuroISPA brought a consistent message that such technologies are essential elements of ISPs' security and privacy-enhancing mechanisms for users. EuroISPA also stressed that policymaker attempt to weaken privacy to enhance security (by seeking to mandate encryption backdoors) would lead only to an outcome of less privacy and less security for users.

Ultimately, EuroISPA's continued participation in the DG HOME expert groups has allowed the association to position itself as a thought-leader and industry technical expert in matters pertaining to cybercrime.

### EUROPOL EC3 EXPERT GROUP

2017 was EuroISPA's second year as a member of Europol's communications providers expert advisory group on cybercrime issues. The group's purpose is to feed into Europol's efforts to tackle cybercrime, and to ensure effective exchange of information between law



enforcement authorities and private actors. EuroISPA is represented in the expert group through Vice-President Dr Maximilian Schubert. The association has already provided valuable insights and recommendations to law enforcement through the expert group, and will contribute intensively to the group’s 2018 work programme.

In particular, EuroISPA has already used its participation to push for balanced solutions and best practice exchange on issues such as CGN (see policy action section) and the procedures and mechanisms for ISP-LEA cooperation.

### **COUNCIL OF EUROPE STEERING COMMITTEE ON MEDIA AND INFORMATION SOCIETY**

The Council of Europe (CoE) Steering Committee on Media and Information Society (CDMSI) directs the Council of Europe’s work in the fields of freedom of expression, media, Internet governance, data protection and other

information society issues. It brings together representatives from national ministries of the 48 Council of Europe participant states, and third-party experts.

EuroISPA has played a longstanding role as official observer at the CDMSI, and led the drafting of the CoE’s 2008 Human Rights Guidelines for ISPs. EuroISPA continued to drive forward the work of the CDMSI in 2018, with EuroISPA Honorary Spokesperson Michal Rotert participating in the steering-group’s meetings and policy events.

In particular, EuroISPA led by Prof. Rotert, contributed to the development of the Council of Europe recommendation on Internet intermediaries, expected to be formally adopted in early 2018. Prof. Rotert also used EuroISPA’s engagement at the Council of Europe to advance EuroISPA’s policy objectives for media policy, though engagement with the CoE’s European Audiovisual Observatory.



## EuroISPA 20<sup>th</sup> Anniversary celebration

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On 20th June 2017, EuroISPA celebrated its 20th year anniversary with an evening celebration at the prestigious Bibliothèque Solvay in Brussels' parc Leopold.

European Commissioner for the Security Union Mr Julian King delivered a keynote address on an evening that also included a high-level intervention from Mr Juhan Lepassaar, Head of

Cabinet of European Commission Vice-President for the Digital Single Market Andrus Ansip. In a relaxing environment of cocktails, jazz, and evening sun, the event served as an excellent opportunity for EuroISPA members and friends to catch-up with digital policy stakeholders from Brussels and beyond, and reflect upon how far Europe has come in the efforts to realise a true digital single market.



*“Twenty years ago this month, a motley crew of Internet pioneers came together to form a pan-European association of Internet service providers. In doing so, they recognised that cross-border coordination and dialogue was essential to harness the incredible potential of the then-emerging commercial Internet. Tonight’s celebration is dedicated to them and their achievement in establishing an association that now represents close to 3000 providers across Europe and all along the Internet value chain.”*

*“In 2017 the Internet sector is faced with challenges of a similar character to those we faced in 1997. The proliferation of terrorist content, hate speech and malicious fake news poses new challenges for our members and society at large. And as in 1997 our response must be a multistakeholder one.”*



## COALITIONS

### INDUSTRY COALITION FOR DATA PROTECTION

The Industry Coalition on Data Protection (ICDP) was established by EuroISPA and a handful of other associations in 2012 to coordinate the digital industries' advocacy work throughout the development of the General Data Protection Regulation (GDPR).

Following the completion of the GDPR legislative process in late 2015, EuroISPA led the effort to refocus the coalition's advocacy work onto the proposed E-Privacy Regulation. A specific workgroup within the ICDP has been set-up to lead reflections on E-Privacy, and EuroISPA was nominated to co-chair the group's activity. In that context, EuroISPA directed the coalition's work on E-Privacy throughout 2017, and led the drafting of coalition position papers, public statements, and legislative amendments in both the European Parliament and the EU Council.

With the EU Council working towards finalising its position on the E-Privacy regulation and inter-institutional 'trialogue' negotiations on the horizon, EuroISPA will remain intensively engaged with the ICDP in 2018.

### COPYRIGHT4CREATIVITY COALITION

The C4C brings together industry, civil society, consumer groups and creators who share the vision of a modernised copyright regime in Europe. EuroISPA has played a leading role in the coalition's work since its founding in 2012,

particularly on issues concerning piracy and copyright enforcement.

In 2017, EuroISPA continued its substantive engagement with the coalition's work on the proposed EU Copyright Reform Directive, and led efforts to support and take forward the coalition's advocacy engagement with EU policymakers. EuroISPA is continuing to provide expert insight to support the coalition's advocacy on the intermediary liability-related aspects of the proposal, and is helping build capacity amongst the civil society and academic elements of the coalition membership.

### CONTENT COALITION

The Content Coalition is a EuroISPA-stewarded initiative that brings together the main representative groups of the European ICT ecosystem, namely Cable Europe, ETNO (telco incumbents), ECTA (telco alternatives), and GSMA (mobile operators). The coalition undertakes joint-activity on policy issues of mutual interest to European operators all along the ICT value chain.

The coalition has traditionally been active on issues concerning intermediary liability, and in 2017 EuroISPA used the coalition as a mechanism to engage the broader Internet value chain in discussions around the EU Copyright Reform legislative proposal, given its impact on the EU policy framework for intermediary liability.





## THIRD-PARTY PARTICIPATION

### OSCE AND COUNCIL OF EUROPE INTERNET FREEDOM CONFERENCE

In 2017, the OSCE and the Council of Europe held a joint conference on the role and responsibility of Internet intermediaries vis-à-vis illegal content. EuroISPA was represented by Vice-President Dr. Maximilian Schubert, where he underscored that the rule of law must not to be sacrificed in the fight against illegal content online.

Dr. Schubert highlighted the disproportionate content control burden placed on Internet service providers in illegal content removal, where government tendencies are moving towards making ISPs judge, jury and executioner with respect to online speech. The detrimental impact of such measures across the entire Internet value chain was highlighted, as well as the negative impacts of such upon free expression online.

EuroISPA has continued its sustained engagement in raising these crucial messages on intermediary liability and responsibility at EU level and internationally, and is leading the advocacy movement for an effective content removal framework that respects the rule of law.

### RIGHTSCON EUROPE E-EVIDENCE PANEL DISCUSSION

On 31 March 2017, EuroISPA was invited to participate in a panel discussion at the RightsCon Europe conference, that focused

on law enforcement authorities' cross-border access to e-evidence.

RightsCon is the world's leading event on human rights in the digital age, and brings together industry, academia, civil society and policymakers from around the world to tackle some of the most pressing issues at the intersection of human rights and digital technology.

The panel discussion was organised by EDRI, the EU-level digital rights advocacy group. EuroISPA was joined on the panel by representatives of the Cybercrime division of the Council of Europe, Microsoft, and the UK-based civil society group Open Rights Group.

EuroISPA's targeted intervention in the discussion focused on:

- Elaborating the unique problems faced by small and medium-sized ISPs when faced with cross-border LEA requests;
- Stressing the need to preserve a framework whereby ISPs only cooperate with the national law enforcement, in the context of a reformed MLAT process;
- Highlighting the need for effective cost reimbursement

Participation at RightsCon Europe was one part of EuroISPA broader intensive engagement in 2017 on matters concerning ISPs' cooperation with law enforcement authorities.

# General Meetings

Four times a year, EuroISPA members from around Europe convene to discuss the latest developments in EU and national-level ICT law and regulation.

These meetings offer a unique opportunity for representatives of national ISP associations to exchange best practice insights from their varied experiences in the sector, and develop a bottom-up approach to EU-level discussions. EuroISPA General Meetings also offer the opportunity to hear from national and EU-level information society experts. In 2017, EuroISPA members enjoyed guest addresses from policymakers in the European Commission, privacy activists, the government officials, and academics from leading European Universities.

EuroISPA General meetings are divided into a series of sessions, dedicated to the work of the association's eight policy sub-committees.

These sub-committees steer the association's work in particular fields of importance and are chaired by elected EuroISPA Council members.

- Intermediary liability – Chair: Malcolm Hutty (LINX)
- Data Protection & Privacy – Chair: Oliver Süme (Eco)
- Innovation & Growth – Chair: Innocenzo Genna (AIIP)
- Cybercrime & Cybersecurity – Chair: Dr Maximilian Schubert (ISPA Austria)
- Safer Internet – Chair: Nicolas Darcy (AFPI)
- Market & Services – Chair: Jean-Marie Le Guen (FFTélécoms)
- International Affairs – Chair : Malcolm Hutty (LINX)
- Net Neutrality – Co-Chairs: Jussi Mäkinen (FiCom), Innocenzo Genna (AIIP)



# Officers & Secretariat

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## OFFICERS



Oliver Süme  
President



Dr Maximilian Schubert  
Vice-President



Innocenzo Genna  
Treasurer



Michael Rotert  
Honorary Spokesman

## SECRETARIAT



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Andrea D'Incecco  
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