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WEEKLY INSIGHT
Alarm in the sector as the ‘Internet law’ comes into force
Last Saturday, the Spanish law for the Information Society Services and E-Commerce (LSSICE) was put into effect, sparking off fears among companies and individual Internet users.
The law, approved after almost two years of controversy, typifies numerous aspects of cyberactivity, from commerce and electronic orders, to extrajudicial resolution of disputes or voluntary conduct codes.
The severity and strong interventionism of the new law was much criticized during the legislative process. This week protests of different associations have got worse and more than 90 websites have gone off-line to avoid fines.
In view of this situation, the Spanish Minister of Science and Technology, Josep Piqué, has asked for ‘calm and tranquillity’ and has guaranteed that his ministry will clarify the interpretation of the Law, to dispel every doubt.
From En la Web [Full Story]

Highlights
- Approved on July 11, the LSSICE is based on the European Guidelines on e-commerce of June 2000. Although the law is considered as a legal tool of reference, there are many other norms that rule Spanish e-commerce.
- The development of the Law has been controversial. Finally, the text has 45 articles and 16 regulations after two years of study, five official drafts and some parliamentary amendments. The most controversial issues are the regulation of unsolicited commercial e-mails (spam), the separation between informative web and e-commerce profit sites, obligatory register for every web site affected by the Law, traffic data retention and the possibility that the Government can shut down sites instead of a judge.
- The latest criticisms come from the Chambers of Commerce, the national association of Internet companies and the association of Internet users, who blame the Ministry for not ‘resolving the ambiguity’ of the Law and impeding the discussion in the senate.
- In view of the protests, the Ministry of Science and Technology has announced that shortly it will clarify how the
rule must be interpreted. Moreover, in the particular case of the retention of traffic data, the authorities have assured that 'no legal proceedings will be initiated' until the LSSICE regulations are developed.

Press Review
From La Vanguardia
“The law is born when Internet is already an adolescent and has caused some trouble. It could also have had an important role in the preparation of 11-S attacks. Thus, and following the wake of the European Union and, above all, that of the US, this splendid document forces the ISPs to save electronic traffic data for twelve months. This obligation has been severly criticised for its economic cost, because servers must provide themselves with huge amounts of memory. Moreover, one of the fears in the Net is whether it will be necessary to save entire e-mails or their attached files and who should have access to them. Another question raised by the lawyer Emilio Gómez, from the Hispaiuris association, is how to carry out the obligation to register Internet servers in the company register if 'at the present moment this organism doesn’t have any procedures’ for this.” [Full Story]

From The Register
“People are voicing their protests against the "inquisitorial" new law by taking their sites off line. (...) Jose Manuel Gomez, Editor of Kriptopolis, who’s been involved in the campaign since the Spanish government first drafted its proposals in May last year, told us "clearly this law has been passed for controlling web contents and to force editors to self-censure."
The International privacy organisation STOP 1984 has changed its main page to show its support for the close-down. ‘We lament the loss of many web sites of Spanish NGOs. They had to go offline or will go offline soon because of the LSSI,’ the site comments, above a tombstone declaring ‘RIP: Democracy’.” [Full Story]

From IBLNews
"The PP has reduced the importance of the criticism for the inclusion in the senate of the controversial article 12 (data maintenance by ISPs), because it assures that it is an 'absolutely indispensable contribution' in the fight against 'cybercrime, above all terrorism', and highlights that 'only a judge' will have access to this information. However, parliamentary process of the law has been marked by direct confrontation between the political forces. For PSOE, the LSSI has been characterized by the 'Government’s zeal for controlling the Net', and keeps its doubts about its practical application.” [Full Story]

Commentary by...
Joaquim Barberà, EBCenter Research Assistant
LSSICE: Regulating or obstructing?
“The creation of an adequate legal basis, by virtue of which intervening actors achieve the necessary confidence in the use of this new environment'. The Law of Information Society Services of Electronic Commerce (known under the acronym LSSICE) was passed some months ago with such a declaration of intentions. However, the resulting effect since it entered into force on October 12th has shown exactly the contrary. Proof of this is the closing –totally or in part- of over 200 Spanish websites during the first week of life of the new law. Equally revealing was the urgent statement made by the Science and Technology Minister, undoubtedly intended to try to appease the overwhelming amount of complaints made by the main industry and user associations in the sector.
The difficulties creating so much restlessness and which those affected by the LSSICE have to face can be divided in three main groups. On the one hand, companies in the sector must abide by a long list of new legal obligations: incorporation in public registers of their domain names, compulsory information on every web site, restrictions to be imposed on services, special requirements for online transactions, data traffic retention, limitations applied to promotional communications, etc. Moreover, the measures stipulated in case of breach of such obligations are truly strict, with single fines that can go as high as 600,000. Secondly, there is the lack of precision of most of the essential terms and conditions set forth in the LSSICE. In the absence of a regulation that develops the law, the manner in which issues such as the subjects bound by the norm, which emails should be deemed promotional, or which government agencies are competent to administer the law, remains totally unclear.
Finally, individuals and companies to whom the new law applies must assume enormous and unforeseen financial costs: legal audits, the training of personnel, expenses related with data retention, specific insurance, legal fees in case of litigation, etc. Such disbursements –so extreme that they can eventually force a company into bankruptcy - are the...
logical consequence of the two previous groups of problems. But what must also be borne in mind is that many companies will only make such investments out of fear towards the government’s power to penalize, a fear fully justified, especially if one evaluates the extraordinary zeal of a Data Protection Agency that until now indirectly regulated some of the matters now contemplated by the LSSICE.

REPORTS

Online customer service, a competitive advantage
Title: Strategies for Success in the Customer Age
Source: CRNguru.com and RightNow Technologies
Date: 2002
Abstract: Thanks to investments in ERP systems and supply chain management, quality is up while costs and cycle times are squeezed to what were unthinkable levels just a few years ago. Trouble is, these optimized production methods and cost efficiencies are available to one and all. Advantage: None. These global trends explain why Customer Relationship Management (CRM)—a business strategy to get, grow, and retain the right customers—is on the minds of most CEOs. They also explain why analyst firms estimate that enterprises worldwide will spend about $20 billion on CRM and sell-side eBusiness applications by 2003 Consulting and integration services are extra. (These changes may not be in the original text but are grammatically necessary) Nowadays companies can choose from an ever-increasing array of technologies and packaged solutions. The major options, in rough order of popularity, are online self-service, because the information is on the Web and customers can search a database and find their own answer; e-mail management; and live chat that allows answer back in real time. After them there are virtual reps, which are basically an online database enhanced with an attractive simulated face “answering” your question; and voice-over IP, which allows network companies to cut phone costs. This report reveals that, although business managers believe that productivity and cost savings are important, 89% is most concerned about improved customer satisfaction, 87% prefers to increase customer retention and 83% to improve competitive differentiation. [Full Story]

The European Commission proposes ways to measure scientific and technological productivity
Title: Benchmarking S&T Productivity
Source: European Commission
Date: June 2002
Abstract: Recently, numerous attempts have been made to account for scientific and technological activities. The European Commission presents two approaches based on the number of scientific publications and the patents registered. According to this survey, the EU represents, in absolute numbers, the largest source of scientific publications slightly ahead of the US and a great deal ahead of Japan. However, in publications per inhabitant, the EU is ahead of Japan but lags behind the US. The gap with the US has almost halved between 1995 and 1999. As regards intra-EU performance differences, it observes that two thirds of EU publications come from the UK, France and Germany. The authors point out that in publications per money spent in university research the EU leads the US and Japan, and its lead doubled between 1995 and 1999. On the other hand, in patents per money spent in business R&D, Europe lags behind the US and Japan. [Full Story]

Trust, a reason of digital divide
Title: Trust, the Internet, and Digital Divide
Source: IBM Research Division
Date: July 2002
Abstract: Economists investigated the possibility that differences in economic growth might stem directly from differences in the extent to which members of different cultures were willing to trust each other, because almost all transactions involve some opportunities for misrepresentation, non-compliance, or outright fraud. This report, based on this theory, shows that returns to any such policy will be greater for high trust countries than for low ones—differences in trust among countries will promote an increasing digital divide between them.
To see how this translates in terms of growth rates in Internet adoption, suppose each country adopts a policy that improves its Trust scores by 5% per year. Norway, the most trusting country in the sample, reaches Trust saturation by 2010 with an associated Internet Subscription level increasing from 16% to 35%. In contrast, for the lowest trust country, Brazil, this policy only stimulates the growth rate from 3½% to 5% over the 10-year period. In this case, the impact of this 10-year policy of 5% annual growth in Trust is to increase Internet Subscription from 1.6% to 1.67%.

COMPANIES

Reuters introduces instant messaging in financial sector
Reuters has today launched its own instant messaging service, aimed at banks and financial institutions worldwide. Developed in association with Microsoft, Reuters Messaging enables staff within an organisation, often spread over multiple locations, to communicate in real time. In order to appeal to banks Reuters said it was imperative to ensure the service was completely secure.

Meanwhile, financial services firms, including Deutsche Bank and J.P. Morgan Chase, ask IM providers to adopt standards.

From Reuters [Full Story]
From News.com [Full Story]

EBay TV program on hold
A program co-produced by Internet auction giant EBay, which was supposed to begin broadcasting in September, has been delayed by at least a year, raising questions about whether EBay can duplicate its overwhelming online success on television. Another worry is that the series will be an infomercial for EBay.

From San Francisco Gate [Full Story]

AOL bans pop-up ad sales
AOL Time Warner's America Online has announced that it was banning sales of pop-up ads to third-party marketers. It estimates the cost of Pop-Up elimination at $30 Million.

From AdAge [Full Story]

WE RECOMMEND

Web Services, in the maturing phase
New technologies arrive in phases. On the lift-off phase gurus and techies foam with excitement about the concept's potential. Phase two is otherwise known as reality. On phase three, the technology is finally mature enough to be widely accepted.

Web services are just on phase two and have to mature to keep its major promise: making it simple and painless to integrate business applications by using the Internet. At the moment, the upshot is that Web services aren't comparable to traditional transaction processing applications for companies that need a truly reliable medium. Moreover, the standards that comprise Web services contain nothing that will allow businesses to build secure applications with them. There are different options for companies that want to use Web services now: customize Web services, order fee Web services networks that act as an integration hub between a company and its suppliers, or just wait for the technology to mature. The authors recommend companies to experiment with Web services that don't require security and reliability.

From Darwin Magazine [Full Story]

The weaknesses of Microsoft
For the first time in years, Microsoft seems vulnerable. Online magazine News.com looks at the Giant of Redmond strategy and points out its major errors.

For a combination of reasons ranging from the troubled economy to mistakes in Microsoft business strategies, many large companies are wondering, for the first time in maybe a decade, why they pay so much for its products and how they can get by with less. The controversial new software licensing policy, which raises prices for some customers and asks them to pay in advance for future releases, has angered many Microsoft customers and driven them to seek
cheaper alternatives such as Linux. So the company, which for years railed against the economic philosophy of open-source software, claims to "love" the open-source concept.

On the other hand, Microsoft has based its business for business costumers on two important acquisitions: Great Plains Software and Navision. Both companies constitute Microsoft Business Solutions, one of seven lines of business Microsoft Chief Executive Steve Ballmer named as core areas of focus and investment for the company. However, the fledgling unit, with several hundred million dollars in annual revenue, makes up a wee portion of Microsoft's $28.37 billion in sales.

Moreover, its Web Services strategy, originally code-named HailStorm, immediately ran into resistance. Now, the company is building its consumer Web services around its MSN Internet access service--a move that poses yet another set of risks, given that the online property has been a money-losing operation for years.

Lastly, the sluggish customer adoption of the .Net concept, that it is crucial for Microsoft, has broken down Microsoft's product timing, which had always worked like clockwork.

From News.com [Full Story]

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