On The "Right to Be Forgotten": Challenges and Suggested Changes to the Data Protection Regulation

May 9, 2013

Supporting Documents

Since January 2012, the European Union institutions have been debating draft legislation to reform European rules on data protection (commonly referred to as the Data Protection Regulation (DPR)). Article 17 of the proposed DPR presents the concept of a "Right to Be Forgotten". Article 17 would allow a user to request that an online service provider delete all data – including data that has been made public – it has about that user. While CDT is sympathetic to the concerns that underlie Article 17, we have recommended that it be redrafted and narrowed substantially. As laid out in the Commission's proposal it would significantly limit users' free expression rights and impose unreasonable burdens on online platforms and ISPs, likely leading to fewer platforms for user speech. Private companies are ill-equipped to take responsibility for decisions that balance the right to privacy with the right to free expression. Such questions are ultimately for courts to decide, interpreting carefully drawn legislative mandates in light of relevant human rights jurisprudence. Moreover, we believe that the measures to protect journalistic and artistic expression – namely, those granted by Article 80 of the DPR – are too narrowly drafted and do not satisfy international human rights obligations regarding free expression.

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