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MARCH 16, 2011, 6:17 PM GMT

Non-EU Websites Must Operate Under EU Privacy Laws

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By Ben Rooney

U.S. and other non-European organizations that target European consumers must be bound by the same strict privacy and data protection requirements as EU companies, Viviane Reding, the EU's justice commissioner said in a speech today. However, no details were given on how the EU planned to enforce its demand.



Getty Images

Although the commissioner laid out her plans back in November in a speech that called for revisions to the EU's 1995 data protection regime, her speech today sought to push the agenda further.

"Privacy standards for European citizens should apply independently of the area of the world in which their data is being processed," said Ms. Reding.

Although Facebook was not mentioned by name, in a very pointed comment she made it clear that the company was on her radar. "A U.S.-based social network company that has millions of active users in Europe needs to comply with EU rules," she said. "To enforce the EU law, national privacy watchdogs shall be endowed with powers to investigate and engage in legal proceedings against non-EU data controllers whose services target EU consumers."

Facebook was unable to provide a spokesman to comment. In an emailed statement the company said: "Facebook is fully engaged in the debates around the review of the European Union's Data Protection Directive. We work closely with data protection authorities across the EU and with the European Commission and Parliament."

According to Marcus Evans of London-based law firm Norton Rose, "You get jurisdiction in the EU if the person doing the data processing is established in the EU, i.e. they have a company in one of the EU member states.

"Or the directive applies EU law to data controllers outside of Europe if they are using equipment located within the EU. You are supposed to appoint a representative in the EU member state in which that equipment is located. That is the person that the EU can take action against."

In her speech, Ms. Redding outlined a number of changes to the data protection regime, including "protection regardless of data location." Privacy standards for European citizens "should apply independently of the area of the world in which their data is being processed. They should apply whatever the geographical location of the service provider and whatever technical means used to provide the service."

Matthew Newman, spokesman for Ms. Reding, said that move was targeting companies who have services outside of current EU jurisdiction but who are providing services within the EU.

"Just because your servers are in Bangalore or Haiti or Canada or where ever does not matter. If you are targeting EU citizens you must comply with EU laws. The national privacy authorities shall be endowed with powers to investigate and engage in legal proceedings against non-EU companies if there is a problem."

However neither the speech, nor Mr. Newman was able to say how the EU's writ would be enforced. "The question of how we do this has not been spelled out. How we enhance the powers of the authorities has yet to be worked out," he said.

Mr. Evans agreed that without a presence within the EU, it was unlikely that action would be taken against a company.

Historically the EU has not been afraid to throw its weight around, and has taken action against a number of non-EU technology companies, most notably Microsoft.

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Privacy man wrote:

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