

# CLIENT ALERT

## Electronic Communications & IT

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### New obligations for Internet access providers

*On 6 April 2010, the Belgian legislator has adopted a new Act which modifies the Act of 13 June 2005 on Electronic Communications. Internet access providers (“IAPs”) will henceforth be subject to additional obligations when customers terminate their Internet access subscription. The new obligations will be further detailed in a code of conduct, which is currently being drafted by the sector itself. -*

#### New obligations

With the Act, the Belgian legislator adds new obligations for IAPs to the Belgian Act on Electronic Communications of 13 June 2005. The new obligations relate to the termination of Internet access subscriptions by customers.

First, customers who terminate an Internet access subscription that also provided them with an e-mail address based on the commercial name or trademark of the IAP concerned ( e.g. @nameprovider.net), should be offered one of the following services:

- During a period of at least 6 months following the termination, e-mails received by the “old” e-mail account should automatically be forwarded to the customer’s new e-mail address, or;
- Customers should be given access to their “old” e-mail account for a period of at least 6 months following the termination.

Each IAP may choose which of these two services it offers to its customers, but it should be offered free of charge.

Second, if a customer terminates an Internet access subscription that also provided him with webspace, the customer should be able to obtain free of charge that his website (URL) remains accessible for a period of at least 6 months following the subscription’s termination.

The customers must be informed of these rights at the time when they express their wish to terminate the subscription, and should be able to activate these services until the day that the Internet access service terminates. Moreover, IAPs have the obligation to inform their customers on the invoices at least once every calendar year about the services that are offered as per the above obligations and on the way to make use thereof.

### **Code of Conduct**

The new Act also holds an obligation for the IAPs to further detail these obligations in a code of conduct. ISPA, the Belgian Association of Internet Service Providers, has taken the lead in drafting the code of conduct, which should be ready at the latest on 16 October 2010, i.e. 4 months after the Act's publication in the Belgian Journal (16 June 2010). The Belgian Institute for Postal Services and Telecommunication will then assess whether the draft code meets the legal requirements and, if so, will decide how IAPs should publish the code. The code of conduct should enter into force on 16 April 2011, i.e. 10 months after the Act's publication. The obligation to annually inform customers on the invoices enters into force on 16 June 2011.

### **Conclusion**

These additional obligations are the initiative of the Belgian legislator and do not result from European legislation. These obligations are positive from a consumer perspective, but they add an additional financial burden on IAPs.

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## **EU Council agrees on action plan to implement the concerted strategy to combat cybercrime**

*On 26 April 2010, the Council of the European Union agreed in a meeting statement on an action plan to implement the concerted strategy to combat cybercrime. The action plan would include the right to revoke domain names and IP addresses.*

### **Introduction**

According to the Council of the European Union it is of a paramount importance to propose actions which would specify how the main points of the concerted strategy to combat cybercrime should be implemented. Therefore, the Council proposed short term and medium term action points and proposed that the European Commission draws up a feasibility study of creating a center that would deal with these action points.

### **Short term action points of the concerted strategy**

Among short term plans, the meeting statement noted it has to find out more about perpetrators and their *modus operandi*. It wants that knowledge is shared in order to have a real idea of the scale of the problem and the way it is constantly evolving. For this purpose, the Council also wants to promote cross-border law enforcement cooperation and public-private partnership and to consolidate, revise and update the functions assigned to Europol's European Cybercrime Platform.

### **Medium term action points of the concerted strategy**

In the medium term, the Council stated that it wants to adopt a common approach in the fight against cybercrime internationally, particularly in relation to the revocation of domain names and IP addresses. Another medium term action point would be to consider raising the standards of specialization of the police, judges, prosecutors and forensic staff to an appropriate level to carry out cybercrime investigations. The other medium term action points are mainly to enhance information sharing between the different institutions and Member States, to reach a better understanding of the trends and *modus operandi* of cybercrime and to promote and boost activities to prevent this type of crime.

**References:** Council conclusions concerning an action plan to implement the concerted strategy to combat cybercrime, 3010th General Affairs Council Meeting

**Links:** [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/114028.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/114028.pdf).

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