



## PRESS RELEASE

### SCARLET EXTENDED CASE: THE EUROPEAN COURT OF JUSTICE'S CLARIFICATION WILL FOSTER INNOVATION AND GROWTH

Brussels, 24 November 2011- The European Internet Services Providers Association (EuroISPA) welcomes the Court of Justice's ruling that network providers cannot be required to engage in large scale filtering of all users' communications.

EuroISPA and its members welcome the Court of Justice's clarification in the *Scarlet extended* case that existing EU law preclude network providers from implementing systems for large scale filtering and blocking of users' electronic communications. This ruling guarantees the protection under EU law of fundamental rights and the freedom of a network provider to conduct its business. Intellectual property rights should be respected but are not inviolable, and disproportionate technical enforcement that infringes on the rights of others is contrary to EU law.

The court ruled that a requiring Internet Service Providers to conduct general filtering of Internet traffic for to prevent copyright infringement is incompatible with the Electronic Commerce Directive and with fundamental rights. Requiring an ISP to install such a complicated, costly computer system at its own expense is a serious infringement of the freedom to conduct business. What is more, such systematic analysis of all content passing through the network undermines both the customers' right to protection of their personal data and their right to receive and impart information.

The ruling from the Court of Justice of the EU will have serious implications for content blocking systems imposed on ISPs in other Member States, especially where these are also maintained at the ISP's expense.

"The Internet industry plays a crucial part in connecting European citizens and businesses to information, news, entertainment, social media, cultural content and other public interest content. This ruling is therefore of fundamental importance for the future of the Internet and the development of a strong Digital Single Market," said Malcolm Hutty, President of EuroISPA

*"Considering the major contribution that the Internet industry can make to the economic recovery, it was indeed not the time to put the innovation of the Internet at risk, and it is of fundamental importance for the future of the Internet that the principles reaffirmed in the ruling are respected"*, he continued.

#### **Background**

By judgment of 29 June 2007, the Belgian ISP Scarlet was ordered to install a filtering system to monitor all peer to peer traffic on its network and to block the exchange of files which were included in the repertoire of collecting society SABAM. Scarlet appealed against that judgment to the Court of Appeal of Brussels, which must now decide whether to uphold the measure adopted against Scarlet. In that context, the Court sought a ruling from the Court of Justice on whether EU law permits national courts to order ISPs to install a system for filtering and blocking electronic communications.

#### **Notes to Editors:**

- EuroISPA is the world's largest association of Internet Service Providers (ISPs), representing the interests of over 1800 ISPs across Europe. With a Secretariat in Brussels, EuroISPA is the voice of the Internet industry on information society subjects such as cybercrime, data protection, e-commerce regulation, EU telecommunications law and safe use of the Internet.
- Further information about the organisation (including its composition, aims and position papers) are available from its website: <http://www.euroispa.org> or +32 2 503 22 65.
- Malcolm Hutty will be available for comment on this case on 24th November 2011.