

Mrs. Viviane Reding
Vice President of the European Commission
Commissioner for Fundamental Rights, Justice, and Citizenship
BRU-BERL 12/288
Rue de la Loi 200
B-1040 Brussels

Mrs. Sophie In 't Veld
Member of the European Parliament
Vice Chair of the Committee on Civil Liberties, Justice and Home Affairs
ASP 10 G 317
Rue Wiertz 60
B-1047 Brussels

Brussels, 13 October 2011

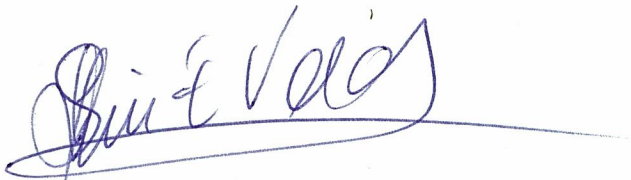
Honourable Vice President Reding,

The Belgian courts have determined that a company with presence in the EU but with its headquarters outside the EU (Yahoo, headquartered in the US) cannot be obliged to make available its customer records to the Belgian authorities by way of a subpoena. The authorities can only obtain the data through a request in the context of the Mutual Legal Assistance Agreement.

In earlier Written Parliamentary Questions, we have expressed concern over the fact that the US considers that its jurisdiction does extend to data stored inside the EU, even if the entity owning the data does not have its headquarters in the US but only a presence. Clearly there is an imbalance here, and the EU has a more limited definition of its jurisdiction than the US has. Does the Commissioner consider that the US (or any other third country) can only gain access to data stored in the EU through MLA requests? Or does the Commissioner consider that US jurisdiction indeed extends into the EU? Has the Commissioner raised the issue with the US, with a view to clarifying the jurisdiction issue?

The Belgian authorities argue that a request in the framework of an MLA Agreement is too time consuming. It may take up to 18 months in order to get the data needed for a criminal investigation. Is the Commissioner aware of this problem? Has this matter been raised with the US authorities? What will the Commission do to improve and speed up cooperation and exchange with the US? Can the Commission clarify if similar problems exist with other countries?

With kind regards,



Sophie In 't Veld