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FEATURED Q&A

Should Search Engines Omit Some Links About Individuals?

Q European judges and regulators are demanding that Internet search engines remove links containing "inadequate, irrelevant or no longer relevant" information about individuals from results pages in all countries and regardless of where in the world the search is performed. The push expands on the European Union's "right to be forgotten" legal principle, which has resulted in the erasing of hundreds of thousands of links on search sites in European countries. What are the pros and cons of the policy? How should Latin American countries respond to the push from European officials? Do Latin American countries need new laws to address irrelevant or disparaging information online about individuals in the region? Does the European model curtail free speech in other countries and allow individuals to conceal information important to the public interest, as critics argue?

A Eduardo Bertoni, global clinical professor at New York University School of Law and director of the Center for Studies on Freedom of Expression (CELE) at the University of Palermo School of Law in Argentina: "The name of this 'right,' the right to be forgotten, is an insult to Latin America history; rather than promoting this type of erasure, we have spent the past few decades in search of the truth regarding what occurred during the dark years of military dictatorships. However, this 'right'

has begun to permeate countries of our region in the form of legislative reforms and judicial requests to implement it. The initiatives are wrong for many reasons. Among them, they increase inequality and information asymmetries. The initiatives establish what many are referring to as the 'right to be forgotten.' In reality, it's very important to understand that all of them establish 'the right to not be indexed by a search engine.' The information intended to be forgotten is not erased, but rather remains on the site where it is. So these ini-

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Biden Discusses Migration, Security in Guatemala Visit

U.S. Vice President Joe Biden on Tuesday concluded a two-day visit to Guatemala where he met with President Otto Pérez Molina (L-R) as well as the presidents of Honduras and El Salvador to discuss topics including migration and security. See brief on page 2.

Photo: Guatemalan Government.

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NEWS BRIEFS

Brazilian Prosecutor Seeking Probes of 54 in Petrobras Scandal

Brazil's top prosecutor, Rodrigo Janot, on Tuesday asked the nation's Supreme Court to investigate 54 people for alleged involvement in a kickback scheme at state oil company **Petrobras**, BBC News reported. The request includes 28 investigations into politicians, whose names were not released by Janot. Investigators have alleged that companies paid inflated prices for contracts with Petrobras, with the proceeds being funneled to the ruling Workers' Party and its allies, which the party has denied.

Central American Leaders Discuss Migration, Security With Biden

U.S. Vice President Joe Biden on Tuesday concluded a two-day visit to Guatemala, where he met with the presidents of Guatemala, Honduras and El Salvador as a follow-up to meetings held last November in Washington about Central American migration to the United States, TeleSur reported. The Central American presidents said they will implement security reforms to help reduce migration from the region.

Venezuela Understating Number of Envoys in U.S.: State Dept.

Venezuela's government, which earlier this week ordered the United States to slash its embassy staff, is "dramatically" understating the number of diplomats it has in the United States, State Department spokeswoman Marie Harf said Tuesday, Reuters reported. On Monday, Venezuela ordered the United States to cut its embassy staff in the Andean country from about 100 to 17, the number of diplomats it said it has in the United States.

Political News

Colombia Detains Weapon-Laden Chinese Ship Bound for Cuba

Authorities in Colombia have detained a Chinese ship loaded with 100 metric tons of gunpowder, nearly three million detonators and about 3,000 cannon shells that were listed on the ship's records as grain products, BBC News reported today. The Da Dan Xi, which was headed to Cuba, is registered to China's largest shipping company, state-owned **Cosco Shipping**. It was

“The documentation that the captain had in regards to the merchandise that was being transported did not correspond to what we found.”

— Luis González

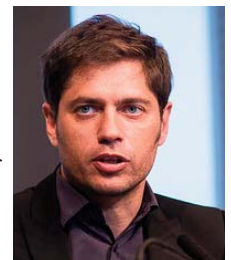
stopped over the weekend in the Colombian port of Cartagena and impounded after Colombian authorities searched it. Colombian counter-narcotics agents had boarded the ship after receiving a tip that it was carrying weapons. "The documentation that the captain had in regards to the merchandise that was being transported did not correspond to what we found," said Luis González, the national director of the Colombian attorney general's office, BBC News reported. González added that the captain of the ship, Wu Hong, would face weapons trafficking charges. The Da Dan Xi also was carrying pipes used for mining, and the crew had stopped in Cartagena to unload them, according to local media reports. Before leaving Colombian territory, the ship was scheduled to make another stop in the port of Barranquilla before heading on to Cuba, according to its itinerary. China's foreign ministry said Tuesday that the ship was operating within the law and was transporting ordinary military supplies, *The Wall Street Journal* reported. Hua

Chunying, a Chinese foreign ministry spokeswoman, said the shipment was part of a "normal military trade agreement," and added that there were no "sensitive substances" on board the Da Dan Xi. "The cooperation does not violate Chinese laws and regulations nor the international obligations that China undertakes," she said, *The Wall Street Journal* reported. In a statement, Cosco Shipping said, "In the future, we will conduct transport service based on law and regulation," the newspaper reported. A spokeswoman for the shipping company declined further comment. Two years ago, authorities in Panama detained a North Korean ship that had left Cuba and was loaded with weapons in violation of international sanctions. Most of the crew members and the ship were allowed to return to North Korea after six months when the ship's owners agreed to pay a fine, BBC News reported.

Economic News

Citi's Argentina Branch Faces Danger in Bond Dispute: Attorney

An attorney for **Citibank** on Tuesday told U.S. District Judge Thomas Griesa in New York that the bank's Argentine unit faces "great danger" if Griesa refuses to allow it to pay interest to holders of the South American country's bonds, the Associated Press reported. Citi would be forced to violate Argentine law if Griesa prevents it from processing interest payments to local bondholders who swapped their bonds after Argentina's massive 2001 debt default. The judge would be "forcing Citibank to violate the law and putting it in a position of great danger," attorney Karen Wagner said in three hours of arguments, if Griesa applies his rulings forcing Argentina to pay \$1.5 billion to U.S. hedge funds holding defaulted debt if the country pays interest to bondholders who accepted debt swaps. Griesa did not



Kicillof

File Photo: Argentine Government.

make an immediate ruling. Also, Argentine Economy Minister Axel Kicillof said Tuesday in a radio interview that "me-too" creditors have filed between \$7 billion and \$8 billion in claims seeking to gain from Argentina's battle with the holdout bondholders, Reuters reported.

Company News

Petrobras Targeting Asset Sales of \$13.7 Billion to Shore Up Finances

Brazilian state oil company **Petrobras** plans to sell \$13.7 billion worth of assets this year and next in an effort to reduce debt and raise cash, Reuters reported Monday. The company said in a security filing Monday that it raised its target for asset sales for 2015 and 2016 from the original \$5 billion to \$11 billion foreseen in the five-year capital spending plan it released last year. Petrobras said that divestitures in domestic and overseas exploration and production are expected to account for 30 percent of the planned asset sales, gas and energy assets for 40 percent, and the remaining will come from distribution assets. Reuters reported last week that Petrobras had hired **JPMorgan Chase & Co.** to handle asset sales, which sources said could include non-core drilling licenses. Petrobras, the world's most indebted publicly traded oil company, has been shut out of international capital markets due to an ongoing corruption scandal. Last week, **Moody's Investors Service** revised the company's debt rating down two levels to junk status and warned that further cuts are possible, citing a cash shortage and fallout from the corruption scandal. CEO Aldemir Bendine took office in early February and has made investment cuts and asset divestitures a key part of his plan to restore confidence in the company.



Bendine

File Photo: Brazilian Government.

Featured Q&A

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tiatives exacerbate the differences between those who know where to find information and look for it directly, and those who do not, and therefore need a search engine. Some cannot access information, while many others can. It is somewhat magical notion that once 'right to be forgotten' laws are on the books, information will disappear from the Internet. However, in the digital age, nothing—or nearly nothing—disappears. If a site is not indexed for a search conducted from a computer in a specific jurisdiction, there is a fundamental asymmetry in information between someone sitting in that jurisdiction searching for a certain piece of information and, say, someone in another jurisdiction (country or region) administering the same search. This asymmetry generates an unacceptable disparity between this planet's inhabitants."

A Richard Hill, president of the Association for Proper Internet Governance (APIG):

"The demands from the European judges and regulators flow from a citizen's right to privacy. If the pages in question were defamatory, nobody would question the measure. The legal principle is not really a right to be forgotten; it is a right not to be pilloried. There is no requirement to remove the original information. The requirement is only to remove search results that point to the original information when the search consists of a person's name. That is, it is still possible to find the original information, but it is not highlighted if all one searches for is a person's name. The policy protects the privacy of individuals by avoiding outdated and irrelevant information being presented prominently if one types a person's name in a search engine. The original information is not removed and can still be found. The only disadvantage is the cost to the search engine providers of having to comply with requests for removal of the offending links. But search engine providers already devote

considerable resources to handling requests for removal of links to material that may violate copyright or other laws. In my view, the European approach represents a best practice that should be adopted worldwide, including in Latin America. I am not sufficiently familiar with laws in Latin America to answer whether new ones are needed, but I will say that the laws should accord similar protection to that accorded in Europe. The measures in question have nothing to do with free speech because they do not restrict what is published. They only restrict what search engines display when one searches a person's name. Free speech is a human right that applies to individuals, not to companies. So restricting what a commercial company presents as search results is not a restriction on free speech."

A Lina Ornelas, head of public policy and government affairs for Mexico, Central America and the Caribbean at Google:

"Legal and social realities in Latin America differ from those in Europe. The Inter-American Human Rights System has repeatedly established that limitations to the right to know and freedom of expression must be interpreted restrictively. The Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights set forth, regarding the Internet, that the defense of privacy should be made attending to reasonable and proportionate criteria that must not derive in an arbitrary restriction on freedom of expression. The European case started in Spain, a country that does not even have an Access to Information Law. In addition, the ruling was issued under a European directive that is not applicable in America. Latin America has worked hard on issuing access to information laws and defending freedom of expression, considering its history of authoritarian governments and the recent development of democracy. In addition, there are also privacy laws. Given the existence

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of the Inter-American Human Rights System as well as these laws, there is no need for new regulations. The protection of privacy should always be weighed against the right to know, which is extremely important for our region, as well as the public interest and freedom of expression. It should never be used for censorship. Allowing otherwise would constitute a serious setback. Search engines should not be considered data controllers; they are intermediaries that merely index information that has been collected by third parties. They are democratization instruments, allowing access to information which in itself is an instrument for accountability and the exercise of other rights. Censoring information in search engines would jeopardize these purposes."

A **Luciano Floridi, director of research and senior research fellow at the Oxford Internet Institute, University of Oxford:**

"The recent ruling by the European Court of Justice in favor of the 'right to be forgotten' is part of the coming of age of our information society, unveiling a tension between privacy and the value of controlling and shaping information about oneself, on the one hand, and freedom of speech and the value of having access to relevant information, on the

other. It is important to recognize the delicate nature of the problem we are facing, and hence the seriousness and complexity of the efforts needed to solve it. Current European data protection law is the expression of a time when there was a clear divide between online and offline. Today, that divide is being bridged in favor of the 'onlife,' a mixture of analog and digital, physical and virtual experiences, like driving a car following the instructions of a navigator. There is a subtlety and scale to the challenge of our 'onlife' existence that calls for enlightened and innovative solutions. More and more, our lives are spent and shaped in the infosphere. Rather than just trying to adopt small, incremental changes in old conceptual frameworks, merely adapting previous legislation or tinkering with current technologies, we need new and bold ideas, and more dialogue. The information revolution has brought a remarkable capacity to tailor digital services and products for commercial and scientific ends. We must pay equal, if not more, attention to ethical ends."

The Advisor welcomes reactions to the Q&A above. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org with comments.

Latin America Advisor

is published every business day by the Inter-American Dialogue, Copyright © 2015

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Latin America Advisor is published every business day, except for major U.S. holidays, by the Inter-American Dialogue at: 1211 Connecticut Avenue NW, Suite 510 Washington, DC 20036
Phone: 202-822-9002 Fax: 202-822-9553
www.thedialogue.org ISSN 2163-7962

Subscription Inquiries are welcomed at fretrial@thedialogue.org

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Q&A EVERY BUSINESS DAY

Latin America Advisor

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