

VFI Executive Briefing
A weekly roundup of technology news
June 27-July 1, 2016

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HILL UPDATE

ZDNet [Senate rejects FBI bid for warrantless access to internet browsing histories](#)

An amendment designed to allow the government warrantless access to internet browsing histories has been narrowly defeated in the Senate. The amendment fell two votes short of the required 60 votes to advance. Mitch McConnell (R-KY) switched his vote at the last minute. He submitted a motion to reconsider the vote following the defeat. A new vote may be set for later on Wednesday.

Reuters [U.S. senator, opposing FBI email data grabs, places hold on spy bill](#)

Sen. Ron Wyden [placed a hold](#) on the 2017 Intelligence Authorization bill. Sen. Wyden held the legislation over provisions expanding the data accessible by National Security Letters and limiting the jurisdiction of the Privacy and Civil Liberties Oversight Board.

Wired [Even Congress Is Slamming That Crummy Crypto Bill](#)

Wired highlighted the release of a House Homeland Security Committee majority staff [report](#) on the ongoing encryption debate. The report offers the first Congressional in-depth analysis of the issue and serves to lay the groundwork for the McCaul-Warner encryption commission.

SPECIAL COVERAGE BREXIT

Wall Street Journal [Tech Companies Weigh Their Interests Before 'Brexit' Vote](#)

Microsoft Corp. was for a decade pursued by European Union antitrust cops, who fined it €2.2 billion (\$2.48 billion). But when customers and employees last month asked executives whether the company wanted the U.K. to leave the bloc, the firm sent an open letter urging it to stay. “Historically, the UK being part of the EU has been one of several important criteria that make it one of the most attractive places in Europe,” wrote Microsoft’s U.K. chief, Michel Van der Bel.

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Wall Street Journal [What Brexit Means for Tech Startups](#)

The world economy is again being tested by an unexpected shock following Britain's vote to exit the European Union. The pound sterling and stock markets globally have been hammered. What does it mean for technology startups and venture capital, which can sometimes appear virtually immune from macroeconomic forces? On one level, it is simple: the Brexit vote means companies large and small are in for a period of uncertainty. And such times are bad for the kinds of speculative investments that are the lifeblood of startups.

Fortune [How Brexit Helps a Data Deal Between U.S. and Europe](#)

Fortune analyzed how the Brexit vote could improve the stability of the EU-U.S. Privacy Shield agreement. The outlet notes that even though a legal challenge to the agreement is almost inevitable, the European Court of Justice and other EU bodies may wish to avoid rejecting the agreement so as to avoid further economic uncertainty post-Brexit.

Wall Street Journal [U.K.'s EU Exit Poses Data-Protection Dilemma](#)

Britain's exit from the European Union risks stripping companies of their ability to freely store information about EU residents on British soil, potentially creating a new barrier to trade in the region. Under current EU law, an independent country needs to convince the EU that it guarantees individual privacy up to EU standards for companies there to retain unfettered access to everything from European payroll records to EU residents' cellphone-location data.

Fortune [How Will Brexit Impact the Technology Sector?](#)

How will the United Kingdom's vote on a referendum to leave the European Union impact the technology sector? That's the question we asked in the latest episode of [The Premise, Forbes' tech podcast](#). A lot of the focus here is on uncertainty in how things will proceed, as well as the prospects for tech in the event that leaving the EU drives Scotland to independence. (Could Edinburgh be the next great tech hub?).

SPECIAL COVERAGE WARRANT CASE

IDG [Microsoft invokes Supreme Court opinion to bolster email privacy case against U.S.](#)

IDG reported on a new Microsoft filing to the U.S. Second Circuit regarding the extraterritorial application of U.S. laws in the Irish warrant case. The letter cites a recent Supreme Court [ruling](#) on the extraterritorial application of a provision in the RICO Act, noting that the Court ruling affirms that U.S. laws cannot apply extraterritorially unless Congress has explicitly provided for it.

International Business Times [Silk Road Emails At Center Of Microsoft's Irish Email Battle With US Government: Report](#)

International Business Times published an article suggesting that the emails involved in the Irish warrant case are related to a U.S. investigation into the Silk Road online marketplace. The articles reference that the emails belong to an Irish national who is fighting extradition to the U.S.

ARTICLE SUMMARY

Ars Technica [Supreme Court sends off patent troll that challenged review rules with an 8-0 slapdown](#)

Patent trolls don't fare well at the Supreme Court. When they show up, their cases tend to result in decisions that are ruinous for the profit margins of their industry. Two prominent examples: the 2006 eBay v. MercExchange case effectively ended trolls' abilities to get injunctions, and the 2014 Alice Corp. case made it far easier for patent defendants to invalidate abstract software patents. And yet, the cases keep coming.

Wall Street Journal [EU Set to Issue Fresh Formal Antitrust Charges Against Google](#)

The European Union's competition watchdog has signaled it is preparing to issue a fresh set of formal antitrust charges, possibly before August, against Alphabet Inc.'s Google over abusing its dominance in advertising, according to people familiar with the matter. The European Commission has asked rival companies to permit disclosure to Google of confidential information they submitted that support allegations that it abuses its dominance in advertising. They would be the third set of formal EU antitrust charges against Google.

New York Times [Tech Makes Its Pitch to the Education Community](#)

For years, Apple and Dell battled over sales to students and schools. Apple was arguably the first tech company to make significant sales to the education market (not including those IBM and

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Hewlett-Packard mainframes used in engineering departments), thanks to computers that were far easier to use than early Windows PCs. But as Apple stumbled in the 1990s and Windows improved, Dell's Windows PCs grabbed a significant share.

The Hill [Wireless networks boost capacity for political conventions](#)

Verizon followed rival AT&T on Monday in saying it had improved the capacity of its wireless network in Cleveland and Philadelphia in time for the Republican and Democratic national conventions. Verizon said it had increased capacity twofold in and around the Quicken Loans Arena in Cleveland, site of the Republican National Convention in late July. It has increased its network capacity six times over in Philadelphia's Wells Fargo Center, home of the 76ers basketball team and venue for the Democratic nominating convention.

The Hill [Trump flexes new digital muscle](#)

Donald Trump is beefing up his digital strategy as he enters the general election campaign against Hillary Clinton. The presumptive Republican nominee has rolled out a website highlighting what he says are lies told by Clinton and, for the first time, is emailing fundraising pitches to supporters, one of the key elements of a national campaign. "I think the early signs we've seen, from them activating a small dollar online plan coupled with the rollout of the microsite, tells me that the Donald Trump campaign is getting its footing," said Michael Duncan, a partner at Cavalry, LLC, a political consultancy, who directed digital strategy for Senate Majority Leader Mitch McConnell's (R-Ky.) 2014 reelection bid.

New York Times [Edward Snowden Criticizes 'Big Brother' Measure in Russia](#)

Edward J. Snowden, an American who took refuge in Russia after leaking a trove of classified United States data from global surveillance, has criticized a proposed Russian law as an assault on freedom of speech, and has been rebuffed in an effort to collect a free-speech prize in Norway. Mr. Snowden, who was charged by the United States in 2013 with violating the Espionage Act, was invited to Norway by a writers' advocacy group to receive the prize, and sought guarantees in court that he would not be handed over to the American authorities.

Washington Post [Hillary Clinton's tech agenda is really a huge economic plan in disguise](#)

Hillary Clinton just unveiled a far-reaching plan explaining how her administration would approach technology issues, promising to connect all American homes to high-speed Internet by the end of

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the decade and revamping the country's education system to support foreign-born engineers and U.S. entrepreneurs. The agenda released Tuesday reads like a Silicon Valley wish list.

Wired [Researchers Sue the Government Over Computer Hacking Law](#)

IN THE AGE of big data analytics, the proprietary algorithms web sites use to determine what data to display to visitors have the potential to illegally discriminate against users. This is particularly troublesome when it comes to employment and real estate sites, which could prevent users from having a fair crack at jobs and housing simply by failing to display certain listings to them based on their race or gender.

Recode [Spotify says Apple won't approve a new version of its app because it doesn't want competition for Apple Music](#)

Spotify says Apple is making it harder for the streaming music company to compete by blocking a new version of its iPhone app. In a letter sent this week to Apple's top lawyer, Spotify says Apple is "causing grave harm to Spotify and its customers" by rejecting an update to Spotify's iOS app. The letter says Apple turned down a new version of the app while citing "business model rules" and demanded that Spotify use Apple's billing system if "Spotify wants to use the app to acquire new customers and sell subscriptions."

The Hill [Warren targets Amazon, Apple, Google in anti-monopoly speech](#)

Democratic Sen. Elizabeth Warren (Mass.) on Wednesday laid into a handful of major U.S. technology companies, saying they are examples of concentrated corporate power that can thwart competition. "Google, Apple and Amazon provide platforms that lots of companies depend on for survival," she said during a speech in the Capitol. "But Google, Apple and Amazon also in many cases compete with those small companies so that platform can become a tool to snuff out competition."

Recode [Hillary Clinton and Donald Trump are worlds apart on tech policy issues](#)

Hillary Clinton laid out an extensive technology and innovation agenda Wednesday in a briefing document that amounts to a giant valentine to Silicon Valley. That should come as no surprise, since Clinton has deep ties to Silicon Valley and has cultivated relationships with some of the industry's power players — people like LinkedIn's Reid Hoffman, Salesforce.com's Marc Benioff, Facebook's Sheryl Sandberg and Kleiner Perkins' John Doerr.

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Wired [Tech-Backed Immigration Actions Blocked By SCOTUS Split Decision](#)

THE SUPREME COURT reached a split decision Thursday on a contentious immigration case that would have allowed President Obama's executive actions on immigration to proceed. The actions, which were blocked by a Texas court last February, would have protected undocumented immigrants who came to the US as children, as well as the undocumented parents of United States citizens, from deportation. Now, the deadlocked decision means the Texas court's injunction will stand, leaving millions of people vulnerable.

The Verge [Politicians have a powerful new tool in Periscope, and democracy is better off for it](#)

In March of last year, shortly after live-streaming via smartphones became a genuine phenomenon, Dan Pfeiffer declared that 2016 would be "the Meerkat election." "Whether it is Meerkat, Periscope or someone else," wrote Pfeiffer, a former senior adviser to President Obama, "the potential for a service that makes live-streaming this easy is limitless. It could do to television what blogs did to newspapers by removing many of the financial and structural advantages of legacy media institutions."

Wall Street Journal [For LinkedIn China, Microsoft Deal Is a Complicated Connection](#)

BEIJING—Western technology companies have long struggled to figure out how to operate in China, home to the world's biggest internet and smartphone markets but ruled by an authoritarian government. Yet LinkedIn Corp. is an exception. To enter the country, LinkedIn in 2014 made a rare concession for a U.S. social-networking company when it agreed to abide by local censorship rules. The company adjusted its business strategy to fit Chinese preferences, joining hands with Chinese firms China Broadband Capital and Sequoia China.

Bloomberg Businessweek [The 'Right to be Forgotten' and Other Cyberlaw Cases Go To Court](#)

Bloomberg Businessweek published a story highlighting Microsoft's warrant litigation in an article about how EU and U.S. courts are deciding important tech policy issues. The piece also touches on multiple other lawsuits, including a Google case involving the right to be forgotten.

The Hill [Long past time to fix evidence-sharing across borders](#)

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The Hill published an op-ed by Bryan Cunningham, lawyer and senior advisor at The Chertoff Group, urging Congress to pass the International Communications Privacy Act. Cunningham argues the bill is a key first step towards addressing international data-sharing issues and would ensure “long-term stability, greater legal certainty and enhanced foreign cooperation.”

The Hill [Kerry backs government access to encrypted data](#)

Secretary of State John Kerry on Thursday seemed to endorse providing law enforcement some form of access to encrypted communications with the appropriate warrant. Asked by Bloomberg’s Emily Chang if he believed there was a “clear government interest in requiring backdoors on encrypted technologies,” Kerry argued that data guarded by encryption is still subject to “lawful availability.”

Notable Quotes

- *“The problem with attempts to undermine encryption through the surreptitious installation of “backdoors” is not simply one of potential civil liberties impacts. There is a compelling economic dimension to this debate that has been largely ignored.”*

- [Ryan Hagemann, technology and civil liberties policy analyst, the Niskanen Center](#)

- *“By contrast, I do not believe it is appropriate to give the government broad new surveillance authorities just because FBI officials do not like doing paperwork. If the FBI’s own process for requesting court orders is too slow, then the appropriate solution is bureaucratic reforms, not a major expansion of government surveillance authorities.”*

- [Sen. Ron Wyden statement on his hold on the 2017 Intelligence Authorization bill](#)

- *“But perhaps the biggest flaw in the Clinton initiative is her continued belief that we can compromise on encryption and other key privacy matters in the name of overall security. This is apparent in the plan’s rejection of what it calls a “false choice” between security and privacy, when in fact the choice is between more security and less security: If we insist on building government backdoors into our products and services, we guarantee that we all will have less security in our daily lives.”*

- [Dan Gillmor, contributor, Slate](#)

- *“And while many of [tech companies] claim to be concerned about their customers’ privacy, let’s also remember that many turn around and sell their customers’ personal information to advertisers. If anyone thinks they are more concerned about privacy than profits, I have a bridge to sell you.”*

- [Former Mayor Michael Bloomberg](#)

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- *"But the House Homeland Security report may be the strongest sign yet that Congress harbors strong reservations about any law that would restrict widespread encryption technology. In fact, the committee's research report takes an approach to the encryption issue that at times sounds more like the arguments of the privacy community than those posed previously by the government."*

- [Andy Greenberg, reporter, WIRED](#)

- *"The future prospects for law enforcement in light of globalizing information networks is uncertain at best. For now, U.S. law enforcement is still able to take advantage of uncertainty in American and international law regarding access to cloud-based evidence. This current, but almost certainly fleeting, "home field" advantage is grounded in the circumstance that U.S. companies dominate the cloud storage market and that, to date, courts have been willing to compel them to assist U.S. investigations regarding data stored abroad. But this form of mandated assistance cannot be sustained in the long run."*

- [Bryan Cunningham, lawyer and senior advisor, The Chertoff Group](#)

- *"The Supreme Court in its opinion on Monday also adopted a view that appears to tally with the stand taken by Microsoft and its backers on the international implications of a decision against the company. The court noted that there are several reasons for the presumption that a statute does not have an extraterritorial implication if it gives no clear indication of one, including that "it serves to avoid the international discord that can result when U.S. law is applied to conduct in foreign countries." Although the risk of conflict between an American statute and a foreign law is not a prerequisite for applying the presumption against extraterritoriality, where such a risk is evident, the need to enforce the presumption is at its apex, the court observed elsewhere in its opinion."*

- [John Ribeiro, reporter, IDG](#)

Social Highlights

- **@CenDemTech:** [Revised #PrivacyShield sent for review by EU member states overnight, expected to hold a vote in July: #dataflows](#)
- **@accessnow:** [#BREXIT: UK needs data protection reforms even if General Data Protection Regulation will not apply, says watchdog](#)
- **@privacyint:** [A bird's-eye view of #IPBill - past, present, and future: @sara_sayara](#)
- **@rj_gallagher:** [Amid Brexit political & economic chaos, UK parliament's upper house debating proposed mass surveillance law #IPBill](#)
- **@csoghoian:** [DOJ: If you use a fake name when you ship a package or buy a burner, the gov can surveil without a warrant.](#)
- **@dinvolz:** [New annual wiretap report finds number of state wiretaps encountering encryption decreased from 22 to 7 last year](#)
- **@AndrewCouts:** [Russia lawmakers pass sweeping spying law that requires encryption backdoors, call surveillance](#)
- **@BlogsofWar:** [Brexit Could Be a Blow for US National Security and Global Privacy](#)
- **@xychelsea:** [Important: The FBI wants easy access to your email and browsing history without a warrant. #WarOnPrivacy](#)
- **@DavidPapp:** [Microsoft invokes Supreme Court opinion in Ireland email case](#)
- **@evanderburg:** [Microsoft invokes Supreme Court opinion in Ireland email case #privacy](#)