

VFI Executive Briefing

A weekly roundup of technology news

May 1 – 5, 2017

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HILL UPDATE

The Hill [Lawmakers move swiftly on IT modernization](#)

Lawmakers are working quickly on legislation intended to accelerate the federal government's transition to modern, more secure information technology systems. A key House panel advanced a bipartisan bill Tuesday that creates two streams of agency funding to incentivize the transition to new technology that is more secure and cheaper to maintain. The latest bill carries White House approval and is aligned with the Trump administration's efforts to make headway on IT modernization, giving Republicans in Congress extra incentive to move quickly on the legislation.

Politico [House Judiciary lays out innovation agenda](#)

Politico reported on the [release](#) of the House Judiciary Committee's [Innovation and Competitiveness agenda](#) for the 115th United States Congress. Politico noted that the committee will focus on multiple lawful access issues, including encryption, reforming and reauthorizing Section 702 of the FISA Amendments of 2008, and law enforcement access to data stored abroad, among other items.

The Hill [Spending deal boosts funds for DHS office securing cyber infrastructure](#)

The bipartisan spending deal hammered out by congressional negotiators boosts funding for an office at the Department of Homeland Security charged with securing U.S. infrastructure from cyber threats. The legislation, released on Monday, allots \$1.8 billion to the National Protection and Programs Directorate at the DHS, an \$183 million increase over fiscal year 2016 levels. A large portion of the funding is specifically designated for the DHS's cybersecurity efforts. The organization would get \$1.4 billion to secure civilian government networks, detect and stop cyberattacks and foreign espionage activities, and modernize and bolster emergency communication networks. Congress must pass the legislation, which would fund government through September, by Friday to avoid shutdown.

TechCrunch [FBI director Comey backs new Feinstein push for decrypt bill](#)

TechCrunch among others, reported on FBI Director James Comey's comments about encryption and surveillance during Wednesday's Senate Judiciary Committee hearing. TechCrunch reported that Director Comey appears to be in support of renewed efforts by Senator Diane Feinstein to introduce legislation enabling court ordered access to encrypted devices and communications. The outlet also noted that Comey seems intent on expanding the scope of national security letters (NSLs) to obtain additional information beyond subscriber information.

VICE [House Democrats demand answers from Jeff Sessions about social media surveillance](#)

VICE reported that 13 House Democrats wrote a [letter](#) to Attorney General Jeff Sessions, demanding information about law enforcement's ongoing monitoring of social media platforms.

ARTICLE SUMMARY

Forbes [A Cloud Over the Microsoft Warrant Case](#)

Forbes published a contributed article by Brian Jacobs, former Assistant U.S. Attorney for the Southern District of New York, analyzing whether recent magistrate rulings ordering Yahoo and Google to comply with warrants for data stored abroad endanger Microsoft's warrant case victory. Jacobs notes that multiple factors, including

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the strong dissents issued as part of the denial of en banc review and a perceived affront to the authority of magistrate judges, have led to a “swift rejection” of the Second Circuit’s precedent.

Wired [US Sanctions Didn’t Stop Russia’s Election Hacking—Or Even Slow It Down](#)

TEN DAYS AFTER US intelligence agencies pinned the breach of the Democratic National Committee last October on the Russian government, Vice President Joe Biden promised government would “send a message” to the Kremlin. Two months later, the White House announced new sanctions against a handful of Russian officials and companies, and kicked 35 Russian diplomats out of the country. Six months later, it appears that the message has been thoroughly ignored. The Russian hackers who gleefully spilled the emails of the DNC, Colin Powell, and the Clinton campaign remain as busy as ever, this time targeting the elections of France and Germany. And that failure to stop Russia’s online adventurism, cybersecurity analysts say, points to a rare sort of failure in digital diplomacy: Even after clearly identifying the hackers behind one the most brazen nation-state attacks against US targets in modern history, America still hasn’t figured out how to stop them.

Recode [The U.S. government could soon ask visa applicants to share their social media profiles](#)

The Trump administration could soon begin asking visa applicants who it fears are security threats to provide a list of all social media accounts they have used within the past five years. About two months after President Donald Trump signed an executive order promising “extreme vetting” for foreign travelers and refugees, the State Department said in a public notice — published quietly Thursday — that it needed social media account information so that it can conduct a “more rigorous evaluation” of certain high-risk visa applicants.

TownHall [Whose Data Is It Anyway?](#)

TownHall published a piece by columnist Derek Hunter warning that as more information moves to the cloud, it is imperative that companies secure private data against government overreach. Hunter showcases Microsoft’s warrant case as an example of U.S. overreach, warning that once the government can “mandate access to data no matter where it’s stored, the cloud becomes a massive potential negation of the 4th Amendment.”

New York Times [How to Prepare for an Automated Future](#)

We don’t know how quickly machines will displace people’s jobs, or how many they’ll take, but we know it’s happening — not just to factory workers but also to money managers, dermatologists and retail workers. The logical response seems to be to educate people differently, so they’re prepared to work alongside the robots or do the jobs that machines can’t. But how to do that, and whether training can outpace automation, are open questions. Pew Research Center and Elon University surveyed 1,408 people who work in technology and education to find out if they think new schooling will emerge in the next decade to successfully train workers for the future. Two-thirds said yes; the rest said no. Following are questions about what’s next for workers, and answers based on the survey responses.

Wired [Trump’s Pressure on Tech Outsourcers Might Be Paying Off](#)

PRESIDENT TRUMP HAS long promised to crack down on tech firms that undercut American workers by bringing in less expensive foreign labor. Last month, he signed an executive order that promised extra oversight of the H-1B visa system that speeds the entry of high-skilled tech workers into the US. Critics called the order a public relations stunt that was unlikely to have any real impact on abuses in the system. Despite the lack of substance in the measure itself, however, the mounting rhetorical pressure from the White House may still be paying off. On Tuesday, Infosys, an IT placement firm and one of the country’s top employers of H-1B visa holders, announced plans to hire 10,000 American workers by 2020. The company also promises to build four

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technology hubs in the US, the first of which will open in Indiana this year. To recruit this new and sizable workforce, Infosys will look to American colleges and universities. The initiative was long in the making, says Infosys CEO Vishal Sikka—part of an ongoing strategy within Infosys to train a new American tech workforce.

Washington Post [Net neutrality may be poised for a Supreme Court showdown](#)

A federal appeals court has said it will not rehear a landmark case looking to overturn the government's rules on net neutrality, the regulations that forbid Internet providers from blocking or slowing Internet traffic. Monday's decision by the U.S. Court of Appeals for the D.C. Circuit allows its previous ruling upholding the regulations to stand — and paves the way for opponents of the rules to appeal to the Supreme Court. "I'm super excited," said Daniel Berninger, one of the critics who in 2015 sued the Federal Communications Commission, which wrote the rules. "When we get to the Supreme Court, we want to be saying [to a largely conservative bench] this is a severe case of government overreach."

Wired [Senseless Government Rules Could Cripple the Robo-Car Revolution](#)

FEW TECHNOLOGICAL ADVANCEMENTS bring to mind the American spirit of innovation like Henry Ford and his Model T. In the wake of his transportation innovation, the horse and buggy became an anachronism as the mass-produced automobile reshaped our cities, led to the emergence (for better or worse) of the suburbs, and revolutionized how we move goods and people. Now, there's little doubt that autonomous vehicles are the next frontier of transportation. These vehicles are projected to make our roads safer, potentially reducing fatalities by orders of magnitude. Along the way, however, there are a number of roadblocks to surmount: infrastructure issues, restrictive state licensing policies, driver education, cybersecurity and privacy vulnerabilities, and more. For innovators, regulators, and policymakers, solving these problems will involve a long to-do list, but a pointless regulatory scuffle over technology standards should not be on it.

New York Times [Apple Announces \\$1 Billion Fund to Create U.S. Jobs in Manufacturing](#)

SAN FRANCISCO — While on the campaign trail last year, Donald J. Trump lamented the loss of manufacturing jobs in the United States and set his sights on companies like Apple to help rectify the situation. "I'm going to get Apple to start making their computers and their iPhones on our land, not in China," he said. On Wednesday, Apple appeared to meet President Trump halfway. While it did not announce a new manufacturing facility with thousands of manufacturing jobs, Apple, the world's most valuable public company, said it planned to dedicate resources to American job creation with a \$1 billion fund to invest in advanced manufacturing in the United States. The company said it would announce the first investment from its new fund later this month.

New York Times [Sent to Prison by a Software Program's Secret Algorithms](#)

When Chief Justice John G. Roberts Jr. visited Rensselaer Polytechnic Institute last month, he was asked a startling question, one with overtones of science fiction. "Can you foresee a day," asked Shirley Ann Jackson, president of the college in upstate New York, "when smart machines, driven with artificial intelligences, will assist with courtroom fact-finding or, more controversially even, judicial decision-making?" The chief justice's answer was more surprising than the question. "It's a day that's here," he said, "and it's putting a significant strain on how the judiciary goes about doing things."

The Verge [What Trump's first 100 days have meant for tech, science, and the future](#)

April 29th marked President Trump's 100th day in office, a "ridiculous standard" that he has promised to surpass nonetheless. Trump had big plans going in: repealing and replacing Obamacare, suspending immigration from "terror-prone regions," building a border wall and making Mexico pay for it. While he's had a handful of victories, like getting Neil Gorsuch on the Supreme Court, many other plans have collided the courts, Congress, or administrative chaos. Yet it has been an eventful hundred days. We won't delve into every executive order and diplomatic shift, but the beginning of the Trump administration has had a profound impact on technology, science,

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and the future course of the planet. Media, politics, and so much else seems to have entered a new era, and it's a surreal one.

ITIF Report [Cross-Border Data Flows: Where Are the Barriers, and What Do They Cost?](#)

A growing number of countries are making it more expensive and time consuming, if not illegal, to transfer data overseas. This reduces economic growth and undercuts social value. This report first analyzes the privacy and security “justifications” nations offer for enacting barriers to data flows, concluding that, while such policies may be well intentioned, these rationales are generally not valid. The report then examines the economic rationales countries provide to justify their data-localization policies, explaining the shortcomings in those arguments and noting that such policies impose large costs on countries’ own economies. The report then proceeds to review the emerging body of research that estimates the cost of barriers to data flows in terms of lost trade and investment opportunities, higher information technology (IT) costs, reduced competitiveness, and lower economic productivity and GDP growth. These studies show that data localization and other barriers to data flows impose significant costs: reducing U.S. GDP by 0.1-0.36 percent; causing prices for some cloud services in Brazil and the European Union to increase 10.5 to 54 percent; and reducing GDP by 0.7 to 1.7 percent in Brazil, China, the European Union, India, Indonesia, Korea, and Vietnam, which have all either proposed or enacted data localization policies. Finally, the report offers recommendations for policymakers in both the United States and other countries.

NOTABLE QUOTES

“The Second Circuit’s panel decision, commentators, and Google itself have all called for a congressional fix. But the straightforward nature of the legal question that has crystallized over the past few months—does the relevant invasion of privacy happen where the data is accessed (in the U.S.) or where the data is stored (abroad)—may well be more readily resolved by the courts, including ultimately the Supreme Court.”

– [Brian Jacobs, contributor, Forbes](#)

“Once the feds can mandate access to data no matter where it’s stored, the cloud becomes a massive potential negation of the 4th Amendment.”

– [Derek Hunter, columnist, Town Hall](#)

“Privacy advocates have raised alarms about the government’s ability to search the raw repository of emails for information about Americans, a practice they call a “backdoor search loophole” in the Fourth Amendment. They want Congress to require warrants for such searches.”

– [Charlie Savage, Washington correspondent, The New York Times](#)

“While social media data can be a useful tool for apprehending criminals in cases related to property destruction, human trafficking and homicide, it can also be misused in ways that implicate Americans’ rights free speech and freedom of association, as well as what the Supreme Court has recognized as the evolving Fourth Amendment right to privacy in our digital age.”

– [13 House Democrats in a letter to Attorney General Jeff Sessions](#)

“I could imagine a world that ends up with legislation saying if you are going to make devices in the United States you figure out how to comply with court orders... Or maybe we don’t go there.”

– [FBI Director James Comey](#)

“The House Judiciary Committee continues to look at solutions to alleviate conflicts that hinder the ability of law enforcement to investigate criminal cases, while also considering the challenges international legal conflicts pose for American technology companies that serve users across the globe.”

– [House Judiciary Committee Innovation and Competitiveness Policy Agenda](#)

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SOCIAL HIGHLIGHTS

- **@OrinKerr:** [Number of current SCOTUS Justices on the Court last time SCOTUS decided a case directly about the 4th Amendment's 3rd party doctrine:](#)
- **@RonWyden:** [The fight is not over. Still a lot of work to do to reform Section 702, including ending backdoor searches of Americans' communications](#)
- **@damonroot:** [Police don't need a warrant to get your cell phone records to track your location. Will SCOTUS step in?](#)
- **@dnvolz:** [Missed the hearing yesterday so catching up: Good point here by @emptywheel that Comey may have boxed FBI in on ECTR](#)
- **@dnvolz:** [Yahoo just released its newest transparency report on government data requests -->](#)
- **@Motherboard:** [FBI director James Comey thinks a law against encryption is possible under Trump](#)
- **@damhouseley:** [Wow...Comey just admits that 702's get incidental collection and those communications involving Americans can be searched w/o a warrant](#)
- **@dnvolz:** [Comey: Section 702 is "an essential tool. and if it goes away, we will be less safe as a country."](#)
- **@JennaMC_Laugh:** [Full desk encryption is affecting "half" of our work, Comey says--46% of 6,000 phones they couldn't open with any technique.](#)
- **@MiekeEoyang:** [#Comey cites 3 702 examples: 1\) identified Israeli suspect in Jewish bombing threats. 2\) Russian botnet operator 3\) MI doctors threatening FGM](#)
- **@relucasz:** [FBI's Comey, in written statement to Senate Judiciary, says FBI unable to access > 3,000 mobile devices b/c of #encryption.](#)
- **@actonline:** [We applaud @RepGoodlatte's #HJC115 innovation agenda, which will advance US competitiveness and make #lawfulaccess & #ecpa reform priorities](#)
- **@cam_kerry:** [Here's how EU and US can strengthen cybersecurity versus threats in common that are indifferent to national borders](#)
- **@ITIFdc:** [NEW REPORT—Cross-Border Data Flows: Where Are the Barriers, and What Do They Cost?](#)
- **@HouseJudiciary:** [ICYMI: @RepGoodlatte Announces Innovation & Competitiveness Agenda for 115th Congress #HJC115](#)