Experts Debate Whether 'Right to Be Forgotten' Should Be Adopted in the U.S.

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The "right to be forgotten" should be adopted in the U.S. because Americans deserve the ability to exercise control over their personal data. Then again, the right to be forgotten could be seen as a form of censorship that aims to conceal past news. At least that's what four privacy and technology experts debated Wednesday night.

The experts considered whether the ruling should be (hypothetically) implemented in the U.S. Organized by Intelligence Squared, a live New York City audience served as the barometer for which side won the debate. Before any words were exchanged, 36 percent believed the U.S. should adopt the ruling; 26 percent were against it, and 38 percent were undecided.

Paul Nemitz, director of the Fundamental Rights and Union Citizenship and director general for Justice and Consumers of the European Commission, kicked off the debate with a firm statement and clarification, calling the right to be forgotten incorrect wording, when, in actuality, it was a "deletion right."

"It is about you exercising control over personal data, you asking big corporations or the state to delete this data which they have about you," he said, and, "it is important because it allows you to control your own life.

On the other side, Andrew McLaughlin, CEO, Digg and Instapaper & former director of Global Public Policy, Google, argued that in actuality, the ruling translated to censorship.

"Censorship has to clear a very high bar in order to be justified in a free and democratic society," he said. "The right to be forgotten does not clear that bar."

Both sides did agree on one thing, however; the ruling confronts a real problem. But is it the best solution?

For Jonathan Zittrain, professor, Harvard Law & co-founder, Berkman Center for Internet & Society, the ruling has too many loopholes. Implementation, at this stage, is too difficult to warrant its passing.

He warned that any general rule on link removal would be “betraying all of the great things that the information revolution has brought us, along with the bad.”

While the side in favor of the ruling argued that the removal of links from a Google search didn't mean they were gone forever — the links still exist online — the other side didn't accept that answer.

“I grant that the Google search result is different from the underlying information, but unless you can find it, it may as well not exist,” McLaughlin said. “And search is how people get at things.”

Eric Posner, professor of law, University of Chicago, countered: “What the right to be forgotten does is it raises the cost for strangers to find out information about you. It doesn't make it impossible.”

Both sides sparred over the specific uses of the ruling, its true definition, and whether it is a “right to force other people to delete things they would otherwise rather not delete,” as McLaughlin called it.

Audience members chimed in with questions, as well, including one man who said, as a developer, he could put together a search engine fairly easily. Would his search engine be subject to the ruling?

Nemitz clarified: “As long as you do this for private use, you would not, in Europe, fall under our data protection law, but of course, to Google, it applies.”

Keeping in mind that 89 percent of European Google users never go to the second search result page, both sides again reaffirmed their belief that search engine results could cause reputational and legitimate damage to a person's life. Both Zittrain and McLaughlin suggested looking for solutions elsewhere, such as options for contextualization or a reassessment of how search result pages are indexed.

Nemitz and Posner stuck to their side, saying the right to be forgotten answers these questions and addresses a burgeoning issue.

Ultimately, the audience decided. Thirty-five percent believed the ruling should be adopted in the U.S., and a majority, 56 percent, believed it should not.