

Chapter 15

Regulation of Internet Content

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ABSTRACT

This chapter focuses on regulation of Internet content. It presents the arguments for and against Internet content regulation, approaches to content regulation on the Net, how Internet content is regulated in different parts of the world, issues inherent in content regulation, choice of content regulation mechanism as well as future trends.

INTRODUCTION

The growth of communications and telecommunication technology has spurred the growth in regulation of new industries. As the technologies advance and cultural and social mores change, new regulation has been needed. (Song, 2001) The Internet today has reached a level of political importance where some form of regulatory policy is needed. The problem is to determine which policies to govern which aspects of the Internet. From one perspective, the Internet does not exist: it is just a conglomeration of linked individual networks which has no formal corporeal existence. From this perspective, there is no need for any policy

save laissez-faire. What may need to be governed are specific pieces, since there is no whole. From another perspective, however, the elements of the Internet constitute a conceptual whole, the ultimate commons, where no part can function well without all other parts operating well. From this perspective, some form of overall governance is essential, which without a whole, there will be no parts (Mathiason & Kuhlman, n.d.)

There has been increasing concern in the last ten years about damaging Internet content including violence and sexual content, bomb making instructions, terrorist activity, and child pornography. Consequently, many governments around the world have sought to address the problem posed by material on the Net that are illegal under the offline laws, and those considered

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harmful to or unsuitable for minors. The nature of content of principal concern has varied greatly from political speeches to material promoting or inciting to racial hatred, to pornographic material (Wikibooks, 2008).

Essentially, to “regulate” means to monitor or control certain product, process or set of behaviours according to certain requirements, standards, or protocols. It would however seem that at least two different senses of regulation have been used in discussion involving the Internet. Sometimes regulatory discussions have focused on the content of the Internet, as in the case of whether online pornography and hate speech should be censored on the Net. And sometimes the regulatory discussion have centered on questions pertaining to which kinds of processes – rules and policies – should be implemented and enforced in commercial transactions in cyberspace. In physical space, both kinds of regulations also occur (Tavani, 2007). In this chapter, regulation of the Net is used in the sense of the former – content control/regulation.

Internet users appear puzzled by governments’ intention to regulate content of the Net. Often users say the Internet is a powerful medium that will be stifled by regulation. However, the power of the Internet is the reason that governments want to regulate it. (Ang, 1997).

The concept of “content” in cyberspace encompasses anything that is created and would apply, from ordinary e-mail to websites and weblogs. The wide scope of the word “content” provides a difficulty for governments when considering content regulation on the Net. The issue of regulating Internet content is part of ongoing debate between those who believe that the state has a role to ensure that harmful content is prohibited and those who believe that the individual must have the right to choose. The gulf between community rights and individual rights divides the debate over Internet content regulation. Governments across the globe, seek to regulate access to speech on the Net so as to establish local control (Papadopoulos, Kafeza & Lessig, 2006).

As far as content regulation is concerned, it is necessary to distinguish between “illegal” and “harmful” content—these two types of content need to be treated differently. The former is criminalized by national laws while the latter is regarded as offensive or disgusting by some people but is generally not criminalized by national laws. For instance, child pornography falls under the “illegal content” category while adult pornography falls under the “harmful content” category. There are also some grey areas such as hate speech and defamation, which in some countries are considered as criminal offences and in others not (Akdeniz, n.d.).

The purpose of this chapter is to describe regulation of Internet content. It presents the arguments for and against Internet content regulation, approaches to content regulation on the Net, how Internet content is regulated in different parts of the world, issues inherent in content regulation, choice of Internet content regulation mechanism as well as future trends.

ARGUMENTS FOR AND AGAINST INTERNET CONTENT REGULATION

Several individuals have expressed views for and against control of Internet content. The following arguments have been advanced in favour of some form of regulation of Net content (Darlington, 2009):

1. The Internet is fundamentally just another communications network. According to this argument we should regulate the Internet as we regulate radio, television, and telecommunications networks.. This argument suggests that, not only is the Internet in a sense, just another network, as a result of convergence it is essentially becoming *the* network so that, if we do not regulate the it at all, effectively over time we are going to abandon the notion of content regulation.

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