

E-commerce 2014

business. technology. society.

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Class Discussion

Free Speech on the Internet: Who Decides?

- Is the Internet a form of “public speech”?
- How can the different national perspectives on free speech be managed in a global environment like the Internet?
- Given that the Internet is supported by governments and private companies, should these institutional and corporate needs supersede the free speech rights of individuals on the Internet?



Understanding Ethical, Social, and Political Issues in E-commerce

- **Internet, like other technologies, can:**
 - ❖ Enable new crimes
 - ❖ Affect environment
 - ❖ Threaten social values
- **Costs and benefits must be carefully considered, especially when there are no clear-cut legal or cultural guidelines**



A Model for Organizing the Issues

- Issues raised by Internet and e-commerce can be viewed at individual, social, and political levels
- Four major categories of issues:
 - ❖ Information rights (see next pg)
 - ❖ Property rights
 - ❖ Governance
 - ❖ Public safety and welfare



Four major categories of issues

- ❖ Information rights are about the control individuals have regarding their personal information
- ❖ Intellectual Property rights are about enforcing intellectual property rights when perfect copies could be made and easily distributed
- ❖ Governance is whether Internet and e-commerce be subjected to public laws and what law making body should have jurisdiction
- ❖ Public safety and welfare is about efforts to ensure equitable access to the internet and e-commerce channels



The Moral Dimensions of an Internet Society

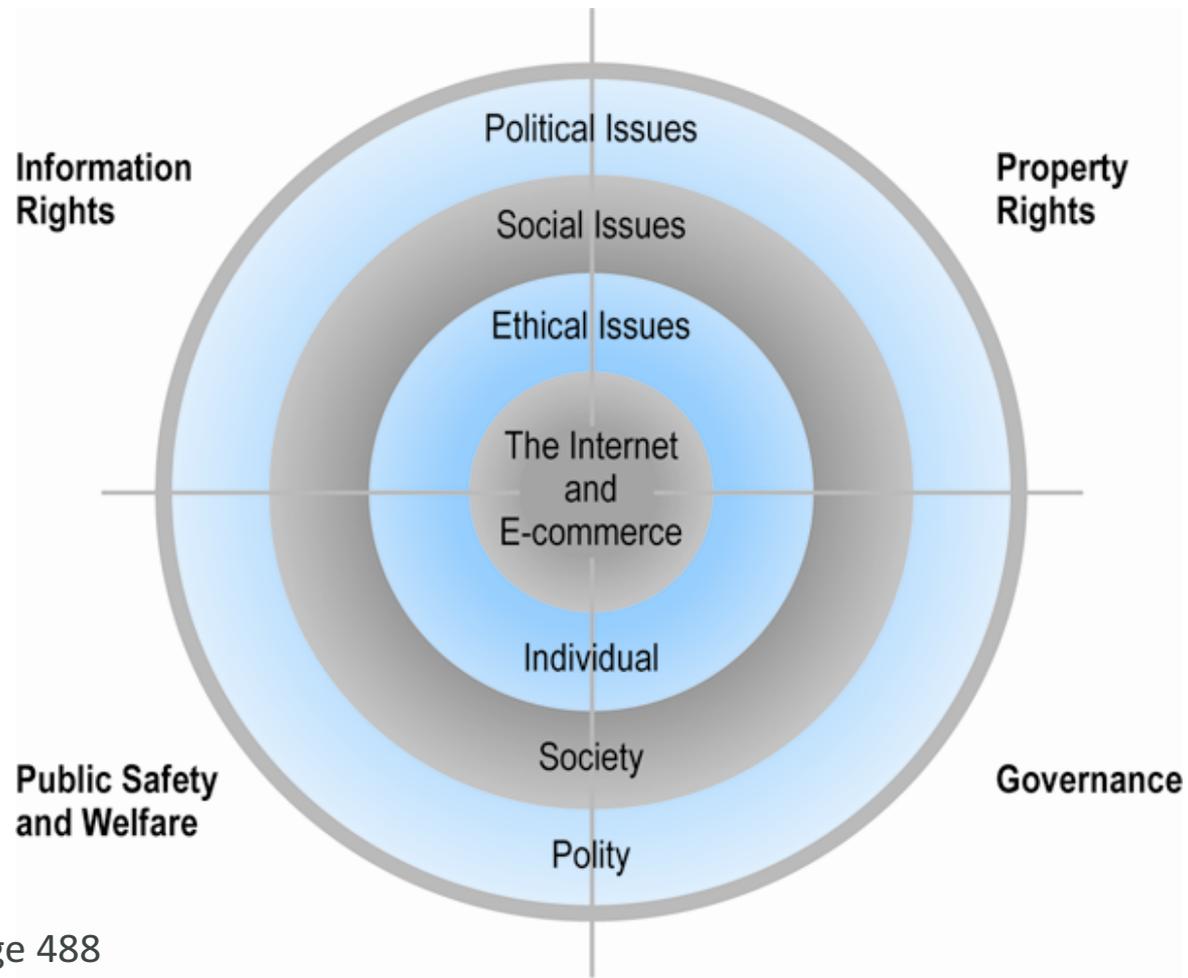


Figure 8.1, Page 488



Basic Ethical Concepts

■ Ethics

- ❖ Study of principles used to determine right and wrong courses of action

■ Responsibility

■ Accountability

■ Liability

- ❖ Laws permitting individuals to recover damages

■ Due process is about the process by which

- ❖ Laws are known, and understood
- ❖ Ability to appeal to higher authorities to ensure laws applied correctly



Analyzing Ethical Dilemmas

- **Process for analyzing ethical dilemmas:**
 1. Identify and clearly describe the facts
 2. Define the conflict or dilemma and identify the higher-order values (freedom, privacy, protection of property etc.) involved
 3. Identify the stakeholders
 4. Identify the options that you can reasonably take
 5. Identify the potential consequences of your options



Deep Rooted Ethical Principles

- Golden Rule, do onto others as you would have them do onto you
- Universalism, if an action is not right for all situations, it is not right for any specific situation
- Slippery Slope, once started down you may not be able to stop
- Collective Utilitarian Principle, take the action that achieves the greater value
- Risk Aversion, the action with the less risk
- No Free Lunch, if someone created something you use, assume the creator wants to be compensated



Deep Rooted Ethical Principles

- The New York Times Test, when making ethical decisions, assume that information about the decision will become public knowledge
- The Social Contract Rule, would you like to live in a society where the principle you are supporting would become an organizing principle for society; if you download illegal copies of music, is it ok for your property rights to be violated?



Privacy and Information Rights

■ Privacy

- ❖ Moral right of individuals to be left alone, free from surveillance, or interference from other individuals or organizations

■ Information privacy

- ❖ The “right to be forgotten”
- ❖ Claims:
 - Certain information should not be collected at all
 - Individuals should control the use of whatever information is collected about them
- ❖ Behavioral tracking on the Internet, social sites, and mobile devices



Privacy and Information Rights (cont.)

■ Major ethical issue related to e-commerce and privacy:

- ❖ Under what conditions should we invade the privacy of others? The right of governments and orgs to collect data, tracking users via GPS!

■ Major social issue for discussion:

- ❖ Development of “expectations of privacy” and privacy norms

■ Major political issue:

- ❖ Development of statutes that govern relations between record-keepers and individuals



Information Collected at E-commerce Sites

■ Data collected includes

- ❖ Personally identifiable information (PII), info used to identify, locate, or contact an individual.
- ❖ P3P, (Platform for Privacy Preferences Project), a protocol allowing websites to declare their intended use of information they collect about web browser users
- ❖ Anonymous information, includes age, occupation, income, ethnicity etc. without identifying who you are

■ Types of data collected

- ❖ Name, address, phone, e-mail, social security
- ❖ Bank and credit accounts, gender, age, occupation, education
- ❖ Preference data, transaction data, clickstream data, browser type



Social Networks and Privacy

- Social networks pose challenges because they
 - ❖ Encourage sharing personal details
 - ❖ Pose unique challenge to maintaining privacy
- Facebook's facial recognition technology and tagging compromises user's privacy
- Personal control over personal information vs. organization's desire to monetize social network allowing companies to target users with ads while not using Facebook



Mobile and Location-Based Privacy Issues

■ Smartphone apps

- ❖ Funnel personal information to mobile advertisers for targeting ads
- ❖ Track and store user locations

■ 42% of users say privacy is a concern

■ Mobile Device Privacy Act

- ❖ Not yet passed
- ❖ Requires informing consumers about data collection



Profiling and Behavioral Targeting

■ Profiling is

- ❖ Creation of digital images that characterize online individual and group behavior
- ❖ Anonymous profiles identify individuals as belonging to a specific group
- ❖ Personal profile is the adding of your email, address, ph# etc to behavioral data

■ Advertising networks such as DoubleClick, 24/7 Real Media

- ❖ Track consumer and browsing behavior on Web
- ❖ Dynamically adjust what user sees on screen
- ❖ Build and refresh profiles of consumers



Profiling and Behavioral Targeting

- **Google's AdWords program** recent form of behavioral targeting of Ads to users based on their prior search histories and profiles.



Profiling and Behavioral Targeting (cont.)

■ Deep packet inspection

- ❖ Technology for recording every keystroke at the ISP level of every Internet user no matter where on the web they travel and then using the info to make suggestions or target Ads

■ Business perspective:

- ❖ Increases effectiveness of advertising, subsidizing free content
- ❖ Enables sensing of demand for new products and services by examining user searches and profile



Profiling and Behavioral Targeting (cont.)

■ Critics' perspective:

- ❖ It undermines expectation of anonymity and privacy that most people expect when using the Internet
- ❖ Consumers show significant opposition to unregulated collection of personal information



Internet and Government Invasions of Privacy

- **Various laws strengthen ability of law enforcement agencies to monitor Internet users without knowledge and sometimes without judicial oversight**
 - ❖ CALEA, USA PATRIOT Act, Cyber Security Enhancement Act, Homeland Security Act
- **Government agencies are largest users of private sector commercial data brokers (Experian, TransUnion, etc.)**
- **Retention by ISPs and search engines user data**



Legal Protections

- **In United States, privacy rights explicitly granted or derived from:**
 - ❖ Constitution
 - First Amendment—freedom of speech and association
 - Fourth Amendment—unreasonable search and seizure
 - Fourteenth Amendment—due process
 - ❖ Specific statutes and regulations (federal and state)
 - ❖ Common law
 - ❖ Fed and State privacy Laws Table 8.4



Informed Consent

- **U.S. firms can gather and redistribute transaction information without individual's informed consent**
 - ❖ Illegal in Europe
- **Informed consent:**
 - ❖ Opt-in requires affirmative action by the consumer
 - ❖ Opt-out the default is to collect data unless consumer takes affirmative action
 - ❖ Many U.S. e-commerce firms merely publish information practices as part of privacy policy or use opt-in as default



The FTC's Fair Information Practices

■ Guidelines (not laws)

- ❖ Used to base assessments and make recommendations
- ❖ Sometimes used as basis for law (COPPA: Children's Online Privacy Protection Rule)

■ Fair Information Practice principles

- ❖ Notice: Sites must disclose info practices before collecting data
- ❖ Choice: a process for allowing users to choose how their info will be used for secondary purposes other than supporting the transaction
- ❖ Access: ability to view and contest accuracy and completeness of collected data



The FTC's Fair Information Practices

■ Fair Information Practice principles

- ❖ Security, taking reasonable steps to secure and protect collected data
- ❖ Enforcement, mechanism for enforcing the FIP principles



The FTC's Fair Information Practices (Cont.)

■ New privacy framework (2010)

- ❖ Scope: includes all commercial entities that collect and use consumer data
- ❖ Privacy by design: orgs should promote privacy throughout the organization
- ❖ Simplified choice: consumers should be allowed to decide what data may be collected and if they want to comply
- ❖ Greater transparency on data collection practices

■ 2012 Report: Industry best practices

- ❖ Do not track
- ❖ Mobile privacy
- ❖ Ability to see files collected by data brokers
- ❖ Dev of privacy policy by large platform providers to regulate tracking across the Internet



The FTC's Fair Information Practices (Cont.)

- **2012 Report: Industry best practices**
 - ❖ Development of self-regulatory rules to ensure firms adhere to the code of conduct



The European Data Protection Directive

■ European approach:

- ❖ Privacy protection much stronger than in United States
- ❖ Comprehensive and regulatory in nature
- ❖ European Commission's Directive on Data Protection (1998):
 - Standardizes and broadens privacy protection in European Union countries

■ Department of Commerce safe harbor program:

- ❖ safe harbor is a private self regulating policy and enforcement process that meets the objectives of government regulators and legislation, but does not involve government regulation or enforcement
- ❖ For U.S. firms that wish to comply with the EU directive



The European Data Protection Directive

- **2012 E.U. proposed changes**
 - ❖ Rules apply to all companies providing service in Europe
 - ❖ Provides greater user rights



Technological Solutions for online privacy

- Spyware blockers
- Pop-up blockers
- Secure e-mail using encryption
- Anonymous remailers send email anonymously
- Anonymous surfing
- Cookie managers prevent computers from accepting cookies
- Disk/file erasing programs erases hard drives and floppies
- Policy generators automates the dev of privacy compliance policy
- Public key encryption encrypts email and docs



Intellectual Property Rights

- **Intellectual property:**
 - ❖ All tangible and intangible products of human mind
- **Major ethical issue:**
 - ❖ How should we treat property that belongs to others?
- **Major social issue:**
 - ❖ Is there continued value in protecting intellectual property in the Internet age?
- **Major political issue:**
 - ❖ How can Internet and e-commerce be regulated or governed to protect intellectual property?



Intellectual Property Protection

■ Three main types of protection:

- ❖ Copyright
- ❖ Patent
- ❖ Trademark law

■ Goal of intellectual property law:

- ❖ Balance two competing interests—public and private

■ Maintaining this balance of interests is always challenged by the invention of new technologies



Copyright

- **Protects original forms of expression (but not ideas) from being copied by others for a period of time**
- **“Look and feel” copyright infringement lawsuits** are about the distinction betw an idea and its expression, Apple sued Microsoft and HP on its windows GUI
- **Fair use doctrine**, under certain circumstances the use of copyright materials may be used without permission, eg. Using and article for class discussion but unable to post it on syllabus



Patents

- **Grant owner 20-year monopoly on ideas behind an invention**
 - ❖ Machines
 - ❖ Man-made products
 - ❖ Compositions of matter
 - ❖ Processing methods
- **Invention must be new, non-obvious, novel**
- **Encourages inventors**
- **Promotes dissemination of new techniques through licensing**
- **Stifles competition by raising barriers to entry**



E-commerce Patents

- **1998 *State Street Bank & Trust vs. Signature Financial Group***
 - ❖ Business method patents
- **Most European patent laws do not recognize business methods unless based on technology**
- **E-commerce patents**
 - ❖ Amazon: One-click purchasing
 - ❖ Priceline: Name your price
 - ❖ Google: Search technology, location technology
 - ❖ See table 8.12



Insight on Technology: Class Discussion

Theft and Innovation: The Patent Trial of the Century

- Do you agree with the jury finding that Samsung violated Apple's patents in the Samsung Galaxy design?
- Should “trade dress” patents cover basic shape elements, such as round-cornered squares used for icons?
- The Apple “look and feel” has inspired the “look and feel” of many other Web sites and devices. How is this different from the Samsung case?



Trademarks

- **Are marks used to identify, distinguish goods, and indicate their source**
- **Purpose**
 - ❖ Ensure consumer gets what is paid for/expected to receive
 - ❖ Protect owner against piracy and misappropriation
- **Infringement tests include**
 - ❖ Market confusion
 - ❖ Operating in bad faith
- **Dilution**
 - ❖ Behavior that weakens connection between the trademark and product



Trademarks and the Internet

■ Cybersquatting and brand-jacking

- ❖ Involves the registration of an infringing domain name, or other Internet use of an existing trademark, for the purpose of extorting payments from the legitimate owners
- ❖ Anti cybersquatting Consumer Protection Act (ACPA)

■ Cyberpiracy

- ❖ Involves same behavior as Cybersquatting with the intent of diverting traffic from the legitimate site to an infringing site
- ❖ Typosquatting



Trademarks and the Internet

- **Metatagging**, the use of trademarks in metatags is permitted so long as it does not mislead or confuse consumers
- **Keywording**, use of using trademarks as keywords on search engines
- **Linking**, building hypertext links from one site to another **and deep linking** is bypassing the target's site home page and going directly to a content page
- **Framing**, displaying the content of another web page inside your own web site within a frame or window



Governance

■ Primary questions

- ❖ Who will control the Internet and e-commerce?
- ❖ What elements will be controlled and how? (e.g. domain names, IP addresses etc)

■ Stages of Internet governance (Table 8.14)

- ❖ Government Control Period (1970–1994)
- ❖ Privatization (1995–1998)
- ❖ Self-Regulation (1995–present)
- ❖ Government Regulation (1998–present)



Who Governs the Internet and E-commerce?

■ Mixed mode environment

- ❖ Self-regulation, through variety of Internet policy and technical bodies, co-exists with limited government regulation

■ ICANN : Domain Name System

■ Internet can be easily controlled, monitored, and regulated from a central location



Taxation

- **Non-local nature of Internet commerce complicates governance and jurisdiction issues**
- **Sales taxes**
- **Mail order/tele order (MOTO) retailing tax subsidies**
- **Internet Tax Freedom Act**
- **Further complications**
 - ❖ Merging of online and offline commerce; firms collect taxes when they have a physical presence in a state.



Taxation

■ Further complications

- ❖ Ebay refuses to collect taxes
- ❖ Taxation of services; online travel sites collect taxes on the whole sale price not on the full fare



Insight on Business: Class Discussion

Internet Sales Tax Battle

- **Given the nature of the Internet, should sales tax be based on the location of the consumer rather than the seller?**
- **Why is there a struggle to define the nature of “small business”? How big is a “small business”?**
- **Are bricks-and-clicks retailers disadvantaged by local sales tax laws?**



Net Neutrality

- **Neutrality: All Internet traffic treated equally and charged the same rate, regardless of bandwidth used**
- **Differentiated pricing strategies**
 - Cap pricing (tiered plans)
 - Speed tiers, bandwidth usage, usage billing
 - Usage metering
 - Charge based on metered units of Internet service
 - Highway (“toll”) pricing charge based on bandwidth
- **Comcast slows users for certain traffic**



Public Safety and Welfare

- **Protection of children and strong sentiments against pornography**
 - ❖ Passing legislation that will survive court challenges has proved difficult
- **Efforts to control gambling and restrict sales of drugs and cigarettes**
 - ❖ Currently, mostly regulated by state law
 - ❖ Unlawful Internet Gambling Enforcement Act



Insight on Society: Class Discussion

The Internet Drug Bazaar

- **What's wrong with buying prescription drugs online, especially if the prices are lower?**
- **What are the risks and benefits of online pharmacies?**
- **Should online pharmacies require a physician's prescription?**
- **How do online pharmacies challenge the traditional business model of pharmacies and drug firms?**
- **What are the challenges in regulating online pharmacies?**
- **Who benefits and who loses from online pharmacies?**



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