

Paper: Assignment

Style: APA

Pages: 11

Sources: 16

Level: Bachelor

Running Head: INTERNET REGULATIONS AND JURISPRUDENCE LAW

[Name of the Writer]

[Name of the Professor]

[Name of the Institution]

[Internet Regulations and Jurisprudence Law]

Internet Regulations And Jurisprudence Law

Theoretically, the Internet is the most regulated atmosphere globally; in realism, it is one of the least regulated ones (Raz, 2005). If British were really fascinated in taking advantage of the benefits of the transnationally networked atmosphere while simultaneously putting forth managers over it, they would take no notification of national sensitivities in support of a wide-ranging global authoritarian response to the online world. Sadly, that seems a legal utopia.

Three leading notions can be derived from the statement: i) Internet is not sufficiently synchronised; ii) British could make an attempt to standardise it, if they were undeniably fascinated, iii) on the other hand, that comes into view as unfeasible as a globally regulated network would hinder with national restrictions.

Initially, we will decide to which degree, the British want the Internet to be regulated. Under the 'Internet' we will recognise a 'decentralised networking system that connects computers and computer networks globally. After that, we will evaluate probable plans for attaining a global regulatory management of the Internet.

Regularity of the Internet

The fiducial point of this analysis is the declaration that the British generally want the Internet to be regulated. Without a doubt, if internet regulation is not needed at all, no attempts on any British' part would have been commenced to regulate it at all. In realism, we examine several attempts to manage the international network both in public and criminal regulatory fields. As the Internet has no territorial restrictions and offers instantaneous communication to anyone anyplace in the world with a Personal Computer and Internet connection, communication between continents is merely a click away. The Internet becomes a trouble-free course to

commend scam, dispense indecent stuff, violate privacy, contravene the intellectual property rights, etc. In several cases rigid, adjudicative and imposing jurisdictions are hard to describe. Consequently, persona running illegal doings may remain not reprimanded. Incidentally, governments have lost 'no less than some of their power to manage what happens in their region and what their citizens do (Engel, 2002, pg.44). The last thing the British would want is to lose their power. That is why they are fascinated in regulating this atmosphere with no restrictions. That is why we will leave out the option of the 'utter regulation free' internet to virtual dreamers and continue with a faith that the British want the Internet to be regulated.

British are fascinated in regulating the Internet to retain their authority. Some pertain widespread governmental manage while others desire self-regulatory rules (Llewellyn, 2008). At present, the problem is how probable is the enterprise of a consistent regulatory system with regard to virtualspace? What regulatory choices are in hand? Which vacant Internet systems should be acknowledged as a model for global regulation? In addition, if British agree on rigid and adjudicative jurisdiction of the Internet associated cases, how can they guarantee the imposing of such a regulation system? Would that require a formation of a 'supra-international' appendage? Then, what role do the national restrictions play in these scenarios? Is it possible or Utopian that the restrictions are overcome in the process of global attempt to regulate the Internet?

Regulation

Mainly, there are two sides to the regulation of the Internet - governmental or legislative regulation and self-regulation. On one side, the 'Unexceptionalists' prop up a wide-ranging legislative structure to manage the Internet. It is their belief that any nation 'can take several steps

contained by its territory to regulate matter broadcasted from the abroad indirectly (Goldsmith, 1998, 1200). Also, the Unexceptionalists are fearful that the deficiency of governmental regulation would eventually produce unwelcome 'virtualanarchy'. So, in turn, to stay away from the virtualanarchy, governments should continue controlling the virtualspace.

Even though, the obligation to regulate the content and activity on the Internet cannot be decreased in value, the 'Regulation' perception risks to lessen the true nature of the Internet - fast and easy surge of information. (Raz, 2003)

Self-regulation

Not like the Unexceptionalists, the disbelievers take part in a ballot for self-regulation of the Internet (Goldsmith, 2000, pg.136). It is their belief that members of the virtualspace can better design wide-ranging legal rules that would both internalise the expenditure of virtualspace activity and give appropriate notification to virtualspace members'. They bring to a close that national regulators should put off to the self-regulatory efforts of virtualspace members (Johnson and Post, 1996, 1367).

A variant of self-regulation support, the 'net neutrality' perception, supports no limitations on content, sites, or policies, kinds of equipment and methods of communication in virtualspace. It is to be ensured by the supports of 'net neutrality' that cable companies cannot monitor, disrupt or sort Internet content without a prohibition from court. So, it will help in maintaining the Internet as an open approach of democratic communication¹.

This model is mostly aided by the UK. The mass of infrastructure of the Internet (consisting of the root servers and ISPs) is located in the UK. As this model is applied to the

¹ Lawrence Lessig, Robert McChesney (2006) No Tolls on the Internet, Washington Post, June 8, <http://www.washingtonpost.com/wpdyn/content/article/2006/06/07/AR2006060702108.html>

world's greater part of servers and providers, it governs the world at the current moment. The most important drawback or failing of such system is that it depends extremely on self-consciousness of individuals and business ethics of companies working on the Internet. The world is built up in a non-homogeneous way.

Co-regulation

To regulate the internet, another model is offered known as 'Cooperation regulation', or 'Co-regulation'. The structure whereby a community legislative act trusts the realisation of the objectives classified by the lawmaking influence to factions which are recognised in the area (for instance, economic operators, the social partners, NGOs [non-governmental organisations] or associations) (European Parliament, 2003).

This phrase involves an amalgamation of the 'Regulation' and 'Self-Regulation' models: government permits a set of laws, and the trade bodies put into practice on advice of semi-governmental executive organisations (Forder, 1999). A research was conducted by the Rand research group in 2008 indicating that in the EU the semi-governmental organisations executing regulations commenced by the governments are a truth of life already'. The research also persuades integrating self- and co-regulatory contemplations into the 'do nothing' and 'normal regulation' choices. (Cave et al, 2008, xiv)

Proved by the Co-regulation to be functioning in Europe and comes out as a talented system for online content and motion regulation internationally. By allotting their power to semi-governmental organisations to put into practice, the rules and regulations, governments do not mislay their power. They keep hold of their supervision manage over those organisations and make sure that the policies put into practice by those organisations are in sequence with the

governments' interests. The defiance for this ostensibly well working system is the contradicting interests of different British. The system works in Europe which is a more or less homogeneous society. It is doubtful how the system may gratify China and America all at once, for example, with such diverse tactics towards the Internet regulation.

Legal Pluralism

Another legal perception, originally borrowed from sociologists, and only recently introduced into legal studies is legal pluralism. This perception is based on the notion that law is not 'single, monolithic, unified sets of rules flowing from the State's hierarchy'. Masaji Chiba, a Japanese jurist, identifies that the 'totality of the law is plural, consisting of different systems of laws interacting with one another harmoniously as well as creating a conflict scenario (1988, 750-751). He identifies three levels of law: official law, unofficial law and legal postulates. Multi-levelled interaction between several kinds of laws creates what we see as a 'national legal system'. Examples of legal pluralism can be found in Afro-Asian colonies of the Western European countries, whereas European legal perceptions coexist with local customary laws.

Within the line of the perception of legal pluralism it is worth to mention the idea by Lawrence Lessig, who suggested that law, enforced by the British, is only one of the four constraints which regulate people's behaviour in real space. The perception of legal pluralism definitely deserves attention. On the other hand, as the perception is recent and not quite well defined yet, the exact way of how it might work with regard towards the Internet Regulation appears obscure. (Lessig, 1999, pg.507)

Enforceability of the Regulation

Supposedly nevertheless the countries agree on a way to regulate the Internet and to assign adjudicative and rigid jurisdiction in case of conflicts, how would they implement such a genius system? One of the ways would be through a 'supra-inter-national' organ with the authority to enforce decisions of the courts of the world. Nobody, no country and no international organ must have such an authority. We examine outrageous attempts of global superpowers to impose their rules, culture and mentality on other British continuously and it only brings resentment, opposition and ruins of war.

Utopia or Realism

Now, having conducted the research of existing systems of the Internet regulation, possible solutions of a unified global regulatory system and problems associated therein, it is time to determine how real or Utopian the idea of a perfectly regulated global network of computers actually is.

When determining the views of different countries regarding an appropriate level of the Internet manage, we have noticed a dependence of such manage levels on the political systems of those countries. Systems closer to authoritarian tend to manage the virtualspace more, while democratic systems are inclined towards self-regulation. Of course, exceptions exist, for example, authoritarian Russia and its absolute absence of regulation of online gambling. Therefore, we believe that the more authoritarian systems would be willing to maintain a stricter manage over the Internet while the democratic societies would struggle for more freedom in virtualspace.

Also, obvious difference of views on the Internet regulation is derived from different constitutional structures. While in monist societies (such as France and most European countries) domestic and International law are one integrated legal system (Ware, 2006, pg.312), in dualist societies (the UK) domestic and international law are two distinct fields. In the monist countries domestic legislation is easier to bring to conformity with an international treaty, once ratified by the government, and it immediately takes legal effect over the country's individuals and companies. Dualistic societies' recognition of international innovations and changes take longer time and is usually accepted partially and adopted to domestic legislation where it does not contradict it.

Therefore, if a consistent global regulatory regime is adopted, it will take longer time and more resistance from the dualist societies.

Realistically speaking, 'the Internet is a product of the physical world with all its flaws (Petrovskiy, 2001, pg.84). As long as the physical world exuberates with crimes, the Internet will feature reflections of the same crimes.

Conclusion

At first sight, content and activities on the Internet appear unregulated and almost chaotic. Defamation, child pornography, identity thefts, hacking, tax evasions, online scams, etc. make the virtualspace appear as a dangerous place (Goodman and Brenner, 2002, pg.141). The level of manage that the British want to impose on the Internet varies depending on political systems of the countries. More authoritarian systems tend to manage the virtualspace more while democratic systems are inclined towards self-regulation.

The extensive regulation of the Internet content and activities contains a grain of wisdom in terms of preventing and penalising violations. On the other hand, if applied over the reasonable limits and combined with extreme censorship and monitoring, it defeats the intention of the Internet of being a fast and free exchange of information and services. On another hand, self-regulation of the Internet corresponds with the intention of the Internet, but it heavily relies on self-consciousness of individuals and business candor of companies using the Internet. There is also a co-regulation scheme for regulating the Internet whereas the government permits regulations, and the industrial bodies implement them on advice of semi-governmental administrative bodies. The model works in Europe (Debussere, 2002, pg.362) but it is uncertain how it can be applied in other British with different approaches to the Internet regulation. In addition, a legal pluralism model might be acceptable for global regulation of the Internet. The main problem in the transnational regulation of the Internet is enforceability of foreign judgements. National restrictions obstruct the enforceability as no country wants other countries' imposing agencies operate on their territories. Finally, the conducted research shows that a comprehensive global regulatory regime for the Internet is possible to achieve. On the other hand, no matter how regulated the virtualspace is, violators will find their ways to evade the law and cause damage. Nevertheless, the Internet is an innovation of humankind, and it will always mirror all the flaws of the physical human world.

References

- Cave, J., Marsden, C., and Steve Simmons, (2008) *Choices for and Effectiveness of Internet Self- and Co-Regulation*, Rand Europe, xiv
http://www.rand.org/pubs/technical_reports/2008/RAND_TR566.pdf
- Debussere, F. (2002) *International Jurisdiction over E-Consumer Contracts in the European Union*: Quib Novi Sub Sole?, 10 International Journal of law and Information Technology, at 362
- Engel, C. (2002) *Organising Co-existence in Virtualspace Content Regulation and Privacy Compared*. Gemeinschaftsgüter: Recht, Politik und Ökonomie, at 44
- European Parliament, (2003) *Council and Commission, Inter-institutional Agreement on Better Law-Making*, Official Journal of European Communities, C321/1
- Forder, J. (1999) *The MA Code of Practice: 'Co-regulation' of the Internet Starts here*. Bond University, Faculty of Law, Law papers,
http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1037&context=law_pubs
- Goldsmith, J. (1998) *Against Virtualanarchy*, 65 The University of Chicago Law Review 4, at 1200
- Goldsmith, J. (2000) *Unilateral Regulation of the Internet: A Modest Defence*, 11 European Journal of International Law 1, at 136
- Goodman, M. D., and Susan W Brenner, (2002) *The Emerging Consensus on Criminal Conduct in Virtual crime?* 10 International Journal of Law and Information Technology, at 141
- Johnson, D. R. and Post, D. (1996) *Law And Borders-The Rise of Law in Virtualspace*, 48 Stanford Law Review 5, at 1367

- Lessig, L. (1999) *The Law of the Horse: What Cyberlaw Might Teach*, 113 Harvard Law Review, at 507
- Llewellyn, Karl N. (2008) *Jurisprudence: Realism in Theory and Practice*, SBN-13: 978-1412807869
- Menski, W. F. (1988) *Asian Indigenous Law in Interaction with Received Law*. Edited by Masaji Chiba. [London and New York: KPI.1986.E401, 37 International & Comparative Law Quarterly 3, at 750-751
- Petrovskiy, S. (2001) *Internet and Law: Stress Points, Nauka i Zhizn* (Science and Life) 3, 84
- Raz, J. (2003) 'About Morality and the Nature of Law', 48 American Journal of Jurisprudence 1
- Raz, J. (2005) 'Can There Be a Theory of Law?', in M.P. Golding and W.A. Edmundson, eds., The Blackwell Guide to the Philosophy of Law and Legal Theory (Oxford: Blackwell Publishing)
- Ware, R. (2006) *The Strategic Use of American Cyberlaw and Virtualspace Jurisprudence*, 48 Managerial Law 3, at 312