

Chapter 9 – Internet Law, Policy, and Governance

Cyberspace law

1. Cyberspace and business
 - a. E-commerce
 - b. Online contract law
 - c. Online financial law
 - d. Online gambling
 - e. Cyberfraud
 - f. Internet tax issues, especially relating to online retailers
2. Cyberspace and medicine
 - a. Telemedicine
 - b. Online prescribing
 - c. Online pharmacies
3. Cyberspace and telecommunications fairness
 - a. Broadband development
 - b. Throttling and access
 - c. Educational uses of the Internet
 - d. Gender and race online
 - e. Poverty and unequal access to the Internet (the digital divide)
4. Cyberspace and education
 - a. Plagiarism
 - b. Use of computers in schools
 - c. Content filtering for minors
 - d. Evolution of fair dealing and fair use in education
5. Free speech issues
 - a. Freedom of expression
 - b. Obscenity
 - c. Pornography and online indecency
 - d. Protection of children
 - e. Cultural rights
 - f. Online defamation (libel and slander)
6. Intellectual property issues
 - a. Copyright law
 - b. Patent law
 - c. Trademark law
 - d. Gifts and online exchange
7. Privacy issues
 - a. Cryptography and privacy protection for online transactions
 - b. Employment privacy
 - c. Personal information privacy
 - d. Data security
8. Security issues
 - a. Cybercrime
 - b. Spamming
 - c. Cyberstalking and online harassment
 - d. Hacking
 - e. Identity theft

- f. The Internet and terrorism
- 9. Political rights
 - a. Access rights
 - b. Online democracy experiments
 - c. Evolution of national firewalls
- As internet changes, so do cyberspace laws to keep up
- Difficult to enforce cyber laws because of the anonymous nature of the Internet
 - Difficult to trace back to original source
 - Evidence can be destroyed, hidden, erased, or altered
- Difficult to enforce cyber laws because cyberspace is borderless and police of one nation have no power outside of national borders
- Internet law in a sense does not exist
 - “internet law” is just an extension of laws developed for other media and communication technologies like print, broadcasting, and telecommunications

Perspectives on Internet Governance

- **Cyber-libertarianism**
 - Internet freedom
 - Key tenet of Internet pioneers like those associated with the Electronic Frontier Foundation (EFF)
 - The internet is a “platform which will allow every person to speak their mind and query the world to create their own point of view”
 - No longer articulated as strongly as a model for Internet governance as it was in the mid-1990s
 - Internet has grown exponentially; user base has become more diverse

Canadian New Media Policy

- 1994 – Canada’s Information Highway Advisory Council (IHAC) created
 - Provided reports in 3 broad areas:
 - Jobs
 - Sovereignty
 - Access
 - 4 important principles for a Canadian information highway
 - interconnections and interoperability between networks
 - mixed public and private sector investment in infrastructure
 - competition in services, content, and equipment
 - adequate protection of privacy and network security

Copyright and Intellectual Property Law: An Overview

- 4 legal and policy issues for copyright
 - The balance between public good and private benefit for use of and access to information
 - Balance between individual rights of ownership and social use for common benefit
 - Nature of knowledge as both a commodity for commercial exploitation and as a public good for common use
 - The best ways in which to promote and equitably share the benefits of creativity in an age of digital networks for people, communities, nations, and global humanity

- **Fair use** (or **fair dealing** in Canada)
 - The principle of copyright law that some users, sometimes, have the right to use copyrighted material without paying a fee or obtaining a licence
 - Eg research and criticism
- **Digital locks**
 - Encryption or other scheme to prevent copying of digital goods
 - Eg DRM (digital rights management) on Steam games
- **Public domain**
 - Works of art (including software, movies, music) that are no longer or have been explicitly removed from copyright protection

Copyright and New Media

- **Creative Commons**
 - Worldwide project that aims to make copyright material more accessible and its terms of access more negotiable in the digital environment
 - **Attribution**
 - Content developers allow others to copy, distribute, display, and perform the copyrighted work but only if they give credit to the original work in the way it was requested
 - **Non-commercial**
 - Others are permitted to copy, distribute, display, and perform a copyrighted work only if it is for non-commercial purposes
 - **No derivative works**
 - Others are permitted to copy, distribute, display, and perform only verbatim copies of the copyrighted work but not derivative works based upon it
 - **Share alike**
 - Original content creators allow others to distribute derivative works only under a license identical to the license that governs their own work

Digital Gatekeepers and the Open-Source Movement

- Technological Protection Measures (TPMs)
- Digital Rights Management (DRM)
 - Set of technical and legal mechanisms applied to help control access and distribution of copyrighted materials
 - Flaws:
 - Diminished consumer privacy
 - Reduced innovation potential
 - Greater imbalance in the relationship between copyright holders and the users of the copyrighted material
- Open-source movement
 - Development of new forms of software through public licenses
 - Users can acquire the software without cost
 - Gain access to source code and modify the software however they like
 - Eg Linux distros