

UNIT IV

Ethical, Social and Political issues in E-commerce

- **Understanding Ethical, Social and Political Issues in E-Commerce**
 - A model for organizing the issues
 - Basic ethical concepts: responsibility, accountability and liability
 - Analyzing ethical dilemmas
 - Candidate ethical principles
- **Intellectual property rights**
 - Types of Intellectual property protections
 - Copyrights: the problem of perfect copies and encryption
 - Patents: business methods and processes
 - Trademark: online infringement and dilution
- **Governance**
 - Public government and law
 - Introduction to Taxation

4.1. Understanding Ethical, Social & 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
- Internet technology and its use in e-commerce disrupts existing social and business relationships and understandings

FIGURE 1.4

EIGHT UNIQUE FEATURES OF E-COMMERCE TECHNOLOGY



TABLE 9.1

UNIQUE FEATURES OF E-COMMERCE TECHNOLOGY AND THEIR POTENTIAL ETHICAL, SOCIAL, AND/OR POLITICAL IMPLICATIONS

E-COMMERCE TECHNOLOGY DIMENSION	POTENTIAL ETHICAL, SOCIAL, AND POLITICAL SIGNIFICANCE
<p>Ubiquity—Internet/Web technology is available everywhere: at work, at home, and elsewhere via mobile devices, anytime.</p> <p>Global reach—The technology reaches across national boundaries, around the earth.</p> <p>Universal standards—There is one set of technology standards, namely Internet standards.</p> <p>Richness—Video, audio, and text messages are possible.</p> <p>Interactivity—The technology works through interaction with the user.</p> <p>Information density—The technology reduces information costs, raises quality.</p>	<p>Work and shopping can invade family life; shopping can distract workers at work, lowering productivity; use of mobile devices can lead to automobile and industrial accidents. Presents confusing issues of “nexus” to taxation authorities.</p> <p>Reduces cultural diversity in products; weakens local small firms while strengthening large global firms; moves manufacturing production to low-wage areas of the world; weakens the ability of all nations—large and small—to control their information destiny.</p> <p>Increases vulnerability to viruses and hacking attacks worldwide affecting millions of people at once. Increases the likelihood of “information” crime, crimes against systems, and deception.</p> <p>A “screen technology” that reduces use of text and potentially the ability to read by focusing instead on video and audio messages. Potentially very persuasive messages possible that may reduce reliance on multiple independent sources of information.</p> <p>The nature of interactivity at commercial sites can be shallow and meaningless. Customer e-mails are frequently not read by human beings. Customers do not really “co-produce” the product as much as they “co-produce” the sale. The amount of “customization” of products that occurs is minimal, occurring within predefined platforms and plug-in options.</p> <p>While the total amount of information available to all parties increases, so does the possibility of false and misleading information, unwanted information, and invasion of solitude. Trust, authenticity, accuracy, completeness, and other quality features of information can be degraded. The ability of individuals and organizations to make sense of out of this plethora of information is limited.</p>

quality.

Personalization/Customization—The technology allows personalized messages to be delivered to individuals as well as groups.

Social technology—The technology enables user content generation and social networking.

of solitude. Trust, authenticity, accuracy, completeness, and other quality features of information can be degraded. The ability of individuals and organizations to make sense out of this plethora of information is limited.

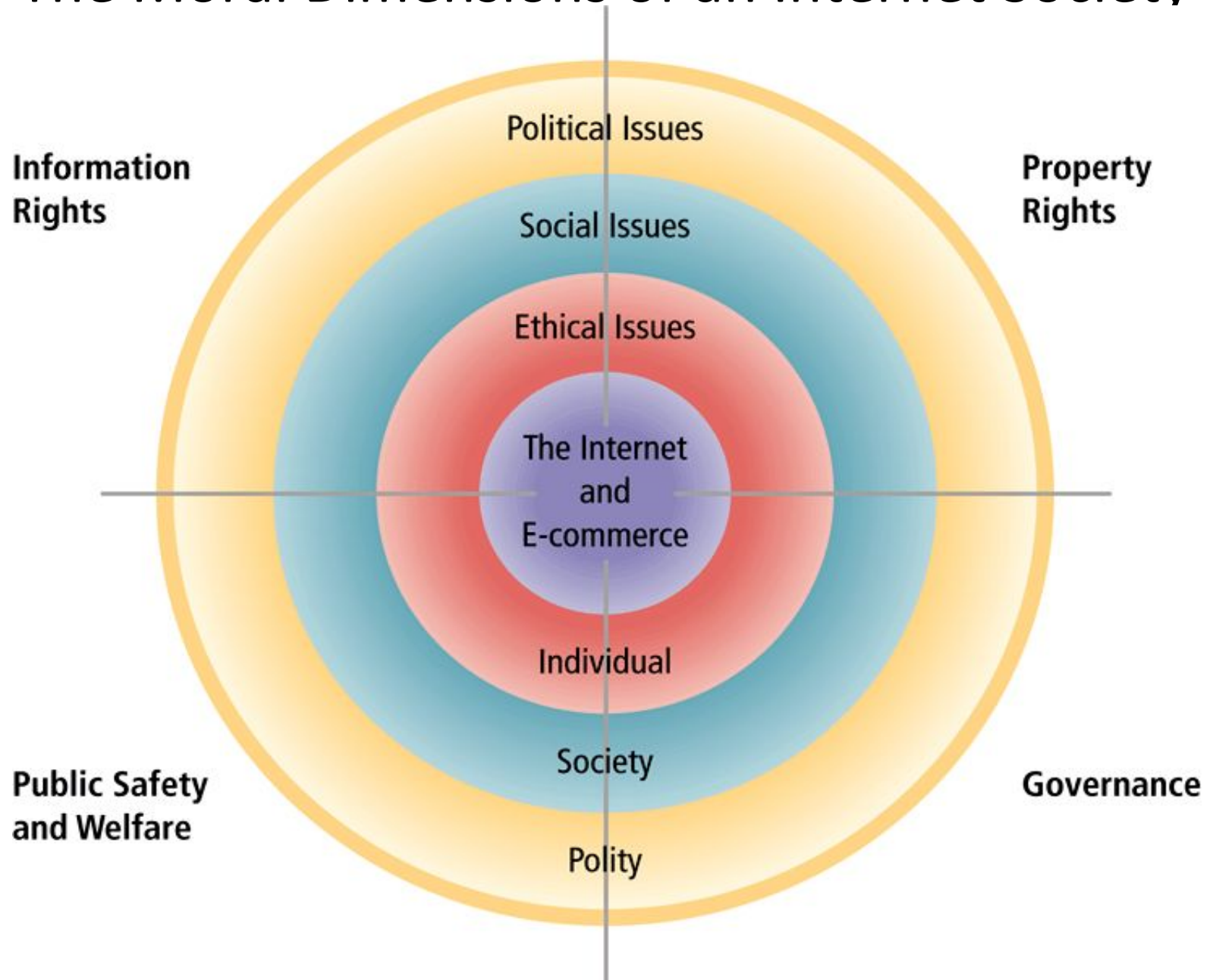
Opens up the possibility of intensive invasion of privacy for commercial and governmental purposes that is unprecedented.

Creates opportunities for cyberbullying, abusive language, and predation; challenges concepts of privacy, fair use, and consent to use posted information; creates new opportunities for surveillance by authorities and corporations into private lives.

4.1.1. A model for Organizing the issues

- Issues raised by Internet & e-commerce can be viewed at individual, social, & political levels
- Four major categories of issues:
 - Information rights
 - Property rights
 - Governance
 - Public safety and welfare
- issues raised in each of these areas

The Moral Dimensions of an Internet Society



4.1.2. Basic ethical concepts:

- **Ethics:** Study of principles that individuals & organizations can use to determine right and wrong courses of action
 - **Responsibility:** As free moral agents, individuals, organizations, and societies are responsible for the actions they take
 - **Accountability:** Individuals, organizations, and societies should be held accountable to others for the consequences of their actions
 - **Liability:** Extends the concepts of responsibility & accountability to area of law
 - a feature of political systems in which a body of law is in place that permits individuals to recover the damages done to them by other actors, systems, or organizations
 - **Due process:** Refers to process by which laws are known and understood, with ability to appeal to higher authorities to ensure that laws have been correctly applied

4.1.3. Analyzing ethical dilemmas

- A dilemma is a situation in which there are at least two diametrically opposed actions, each of which supports a desirable outcome.
- Process for analyzing ethical dilemmas:
 1. Identify and clearly describe the facts.

Find out who did what to whom, & where, when & how
 2. Define the conflict or dilemma and identify the higher-order values involved.
 3. Identify the stakeholders.
 4. Identify the options that you can reasonably take.
 5. Identify the potential consequences of your options.

(what if I choose this option consistently over time)

4.1.4. Candidate ethical principles

- One or more of the following well-established ethical principles can be used to help you determine your actions when confronted with an ethical dilemma:
 - **Golden Rule** (Put yourself in the situation)
 - **Universalism**
(If we adopted this rule in every case, could the organization, or society, survive?)
 - **Slippery Slope**
(Once started down a slippery path, you may not be able to stop)
 - **Collective Utilitarian Principle**
(the one which gives highest value)
 - **Risk Aversion**
(Take the action that produces the least harm or potential cost)
 - **No Free Lunch**
Assume that virtually all tangible and intangible objects are owned by someone unless there is a specific declaration otherwise.
 - **The New York Times Test (Perfect Information Rule)**
assume that the results of your decision on a matter will be told everyone through media.
 - **The Social Contract Rule**
it should be socially correct

4.2. Intellectual property rights

- **Intellectual property:** Encompasses 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:** If, and if so, how, should Internet and e-commerce be regulated/governed to protect intellectual property

4.2.1. Types of Intellectual property protections

- Main types of intellectual property protection:
 - **Copyright:** protects original forms of expression such as writings, art, drawings, photographs, music, performances & computer programs from being copied by others for a minimum of 70 years.
 - **Patent:** grants the owner exclusive monopoly on the ideas behind an invention for 20 years
 - **Trademark law:** a mark used to identify and distinguish goods and indicate their source.

4.2.2. Copyrights: the problem of perfect copies and encryption

- **Copyright law:** copyright law protects original forms of expression such as writings (books, periodicals, lecture notes), art, drawings, photographs, music, motion pictures, performances, and computer programs from being copied by others for a period of time
- Copyright does not protect ideas—just their expression in a tangible medium such as paper, cassette tape, or handwritten notes
- registering software programs started in 1980
- Computer Software Copyright Act, which clearly provides protection for source and object code and for copies of the original sold in commerce, and sets forth the rights of the purchaser to use the software while the creator retains legal title
- Copyright protection is clear-cut: it protects against copying of entire programs or their parts.
- The drawback to copyright protection is that the underlying ideas behind a work are not protected

Look and feel

- “Look and feel” copyright infringement lawsuits are precisely about the distinction between an idea and its expression.
- Ex-1988, Apple Computer sued Microsoft Corporation and Hewlett-Packard Inc. for infringing Apple’s copyright of overlapping windows
- When ideas and their expression merge (i.e., if there is only one way to express an idea), the expression cannot be copyrighted, although the method of producing the expression might be patentable. this is under the “merger” doctrine of copyright law

- Copyrights, like all rights, are not absolute. There are situations where strict copyright observance could be harmful to society, potentially inhibiting other rights such as the right to freedom of expression and thought
- **Fair use doctrine:** The doctrine of fair use permits teachers, writers, and others to use copyrighted materials without permission under certain circumstances 1
- In what's known as the "dancing baby case," a mother uploaded a 30-second video to YouTube of her baby dancing to a song by Prince called Let's Go Crazy. Universal Music Group, the owner of the copyright to the song, objected and issued a DMCA takedown notice to YouTube. The mother sued, claiming that Universal failed to consider whether use of the song in the video was fair use before issuing the takedown notice. The 9th Circuit Court of Appeals agreed that a copyright owner must consider fair use before sending a takedown notice

describes the five factors that courts consider when assessing what is fair use.

TABLE 8.12

FAIR USE CONSIDERATIONS TO COPYRIGHT PROTECTIONS

FAIR USE FACTOR	INTERPRETATION
Character of use	Nonprofit or educational use versus for-profit use.
Nature of the work	Creative works such as plays or novels receive greater protection than factual accounts, e.g., newspaper accounts.
Amount of work used	A stanza from a poem or a single page from a book would be allowed, but not the entire poem or a book chapter.
Market effect of use	Will the use harm the marketability of the original product? Has it already harmed the product in the marketplace?
Context of use	A last-minute, unplanned use in a classroom versus a planned infringement.

- **Digital Millennium Copyright Act of 1998 (DMCA):** First major effort to adjust copyright laws to Internet age
- primary statute that defines the relationship between copyright owners, Internet service providers, and end-users of copyrighted material.
- DMCA implements two international treaties of the World Intellectual Property Organization (WIPO)

3 actors involved

- Copyright owner
- ISP
- Consumer

TABLE 8.13**THE DIGITAL MILLENNIUM COPYRIGHT ACT**

SECTION	IMPORTANCE
Title I, WIPO Copyright and Performances and Phonograms Treaties Implementation	Makes it illegal to circumvent technological measures to protect works for either access or copying or to circumvent any electronic rights management information.
Title II, Online Copyright Infringement Liability Limitation	Limits liability of ISPs and search engines for copyright infringement if they comply with safe harbors. Requires ISPs to "take down" sites they host if they are infringing copyrights, and requires search engines to block access to infringing sites if they receive proper notice of infringement from the copyright owner.
Title III, Computer Maintenance Competition Assurance	Permits users to make a copy of a computer program for maintenance or repair of the computer.
Title IV, Miscellaneous Provisions	Requires the Copyright Office to report to Congress on the use of copyright materials for distance education; allows libraries to make digital copies of works for internal use only; extends musical copyrights to include "webcasting."

Title-2

- ISP are provided with 2 safe harbour
- Post-provides that ISPs will not be held liable for infringing material that users post to blogs, web pages, or forums
- Linking-ISPs will not be held liable for referring or linking users to a site that contains infringing material or infringing activity
- Unless did not have knowledge that the content was infringing, did not receive any financial benefit attributable to the infringing activity (assuming they can control this activity), and acts expeditiously to remove infringing content when notified by a notice of infringement

- Viacom in 2007 against Google and YouTube for willful copyright infringement.
- In 2007, Google announced a filtering system (Content ID) aimed at addressing the problem. It requires content owners to give Google a copy of their content so Google can load it into an auto-identification system

4.2.3. Patents: business methods & processes

- **Patent:**

- Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title
- Grants owner a 20-year exclusive monopoly on ideas behind an invention. [1]
- s. There are four types of inventions for which patents are granted under patent law:
 - machines,
 - man-made products,
 - compositions of matter,
 - and processing methods
- There are three things that cannot be patented:
 - laws of nature,
 - natural phenomena,
 - abstract ideas
- In order to be granted a patent, the applicant must show that the invention is new, original, novel, nonobvious, and not evident in prior

- In 2011, Apple filed suit in the United States against Samsung alleging that Samsung's Galaxy smartphones violated Apple patents on its iPhone and iPad computer.
- does Apple have valid patents on iPhone and iPad hardware and software? Second, did Samsung's phones and tablets infringe on these Apple patents? And third, if Samsung did infringe, what should the penalty be? There are two possibilities: Samsung pays a fine for damages and/or Samsung removes its infringing products from the market. A fourth question is separate from the lawsuits per se and concerns society, the rest of us: what is the best outcome for society?

E-commerce Patents

- Business method patents
- Most of early inventions that made Internet and e-commerce possible were not patented by their inventors
- With commercial development of Internet, came desire for patents
- In 1998, a landmark legal decision, State Street Bank & Trust v. Signature Financial Group, Inc., paved the way for business firms to begin applying for “business methods”
- step by step process, be it electronic or chemical or mechanical, [that] involves an algorithm in the broad sense of the term”

- E-commerce patents
 - Amazon: One-click purchasing
 - Priceline Buyer-driven “name your price” sales
 - Google: Search technology, location technology
 - Facebook : Social technology
- Most European patent laws do not recognize business methods unless based on technology

trademark

- A trademark is “any word, name, symbol, or device, or any combination thereof ... used in commerce ... to identify and distinguish ... goods ... from those manufactured or sold by others and to indicate the source of the goods.
- Trademarks have been extended from single words to pictures, shapes, packaging, and colors
- We cannot trademark common words like clock.
- Federal trademarks are granted for a period of 10 years and can be renewed indefinitely

4.2.4. Trademark: online infringement and dilution

- **Main aim of trademark is twofold**
- Trademarks protect public by ensuring it gets what it pays for/expects to receive; protects trademark owner against piracy and misappropriation
- **Infringement:** Use of a trademark that creates confusion with existing marks, causes consumers to make market mistakes or misrepresents origins of goods.
- The test for infringement is twofold: market confusion [1] and bad faith
- **Anticybersquatting Consumer Protection Act (ACPA):** Creates civil liabilities for anyone who attempts in bad faith to profit from an existing famous or distinctive trademark by registering an Internet domain name that is identical or confusingly similar

Trademark dilution

- dilution, which is defined as any behavior that would weaken the connection between the trademark and the product
- Federal Trademark Dilution Act (FTDA) and extends protection to owners of famous trademarks against forbidding its use that will lessen its uniqueness.
- Unauthorized use of trademark on products that do not compete, or have little connection with the trademark owner
- dilution may occur through blurring (weakening the connection between the trademark and the goods)
- and tarnishment (using the trademark in a way that makes the underlying products appear unsavory or unwholesome).

Types of Trademark Abuse on Internet

- CYBERSQUATTING:** Registration of infringing domain name, or other Internet use, of existing trademark, for purpose of extorting payments from legitimate owners
- CYBERPIRACY:** Involves same behavior as cybersquatting, but with intent of diverting traffic from legitimate site to infringing site.
- Typosquatting is a form of cyberpiracy in which a domain name contains a common misspelling of another site's name
- METATAGGING:** Using another's trademarks as metatags in a misleading or confusing manner
- KEYWORDING:** Using another's trademarks as keywords on search engines in a misleading or confusing manner
- DEEP LINKING:** Bypassing target site's home page and going directly to content page
- FRAMING:** Displaying content of another site within frame or window

4.3. Governance

- Involves issue of social control
- Primary questions:
 - Who will control Internet and e-commerce
 - What elements will be controlled and how
- Stages of governance and e-commerce
 - Government Control Period (1970–1994)
 - Privatization (1995–1998)
 - Self-Regulation (1995–present)
 - Government Regulation (1998–present)

Who Governs E-commerce and the Internet?

- Currently we are in a mixed mode policy environment where self-regulation, through a variety of Internet policy and technical bodies, co-exists with limited government regulation

Can internet be controlled

Decentralise design

Cross border

Packet switching
content

- Not true that Internet cannot be controlled. In fact, Internet can be very easily controlled, monitored, and regulated from a central location (such as network access points, telecommunication firm or agency fiber trunk lines, as well as servers and routers throughout the network).
- China, Saudi Arabia, Iran, North Korea, Thailand, Singapore

Public government and law

- Main reason of govt is to regulate and control within its boundaries
- International trade require multi national corporation
- Nation has power to shape the internet

1. Taxation

- Tax system has changed with time and jurisdiction
- Formation of tax policy is critical and continuous process
- Taxes are on physical assets like prop, and event like sale transaction.
- The most basic function of taxation is to fund government

Diff types of taxation

- Income tax – on income-individual and business
- Corporate tax-profit of business
- Capital gain-tax on profit y selling capital or assets
- Property tax
- Inheritance
- Sales tax-vat and gst

2. Net Neutrality

the concept that Internet service providers should treat all Internet traffic equally.

not discriminate or price differentially by content, protocol, platform, hardware, or application